By Mr. STEENERSON: Petition of Bottlers' Association, requesting the retention of duties on soda, ginger ale, and other carbureted beverages—to the Committee on Ways and Means.

By Mr. STURGISS: Petition of the C. A. Miller Grocery Company, of Martinsburg, W. Va., favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. SWASEY: Petition of citizens of North Jay, Me., favoring a parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. THOMAS of North Carolina: Papers to accompany bills for relief of William Swindell, estate of Seth Waters, and heirs of John B. Wolf—to the Committee on War Claims.

By Mr. VREELAND: Petition for parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

SENATE.

TUESDAY, *January 12, 1909.*

Prayer by the Chaplain, Rev. Edward Everett Hale.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. KEAN and by unanimous consent, the further reading was dispensed with.

U. S. TUG APACHE.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Navy, requesting that the name of the U. S. tug *Apache* be added to the list formerly submitted of vessels requiring general overhauling to the extent of $200,000 or more (H. Doc. No. 1306), which was referred to the Committee on Naval Affairs and ordered to be printed.

ELECTORAL VOTE.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, authenticated copies of the final ascertainment of electors for President and Vice-President in the States of Pennsylvania and Nevada, which, with the accompanying papers, were ordered to be filed.

GEORGETOWN BARGE, DOCK, ELEVATOR AND RAILWAY COMPANY.

The VICE-PRESIDENT laid before the Senate the annual report of the Georgetown Barge, Dock, Elevator and Railway Company for the fiscal year ending December 31, 1908 (S. Doc. No. 650), which was referred to the Committee on the District of Columbia and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 16954) to provide for the Thirteenth and subsequent decennial censuses, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. CRUMPACKER, Mr. BURLEIGH, and Mr. HAY managers at the conference on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (S. 653) to authorize commissions to issue in the cases of officers in the army retired with increased rank, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HULL of Iowa, Mr. CAPRON, and Mr. HAY managers at the conference on the part of the House.

The message further announced that the House insists upon its amendments to the bill (S. 6418) authorizing the sale of land at the head of Cordova Bay, in the Territory of Alaska, and for other purposes, disagreed to by the Senate, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. MONDELL, Mr. VOLSTEAD, and Mr. GAINES of Tennessee managers at the conference on the part of the House.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the Merchants' Association of New York, praying for the limiting of proposed new legislation with respect to new railroads to such measures as have been carefully investigated and studied, which was referred to the Committee on Interstate Commerce.

Mr. FRYE presented the petition of F. W. Hitchcock and sundry other citizens of the State of Maine, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. PLATT presented the memorial of B. F. Witback, of New York City, N. Y., remonstrating against the enactment of any legislation inimical to the railroad interests of the country, which was referred to the Committee on Interstate Commerce.

He also presented petitions of Local Grange No. 480, of Dewittville; of Local Grange No. 956, of Ellenville; and of Bristol Valley Grange No. 109, of Bristol Center, all Patrons of Husbandry, in the State of New York, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

Mr. BURROWS presented petitions of Local Grange No. 296, of Trowbridge; of Local Grange No. 459, of De Witt; and of Local Grange of Ypsilanti, all Patrons of Husbandry, in the State of Michigan, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

Mr. DILLINGHAM presented a petition of sundry citizens of the State of Vermont, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. SCOTT presented the petition of D. Mayer, of Charleston, W. Va., praying for the enactment of legislation to create a volunteer retired list in the War and Navy Departments for the surviving officers of the civil war, which was referred to the Committee on Military Affairs.

Mr. HEYBURN presented a petition of sundry citizens of Canyon County, Idaho, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Miners' Union No. 11, United Mine Workers of America, of Genesee, Idaho, praying that an investigation be made into the conditions of mines operated by the Treadwell Mining Company on Douglas Island, Alaska, which was referred to the Committee on Mines and Mining.

Mr. DICK presented petitions of Local Grange No. 499, of Bryan; of Local Grange No. 644, of Bryan, and of Local Grange No. 1491, of Milford, all Patrons of Husbandry; and of the Farmers' Institute, of Barnesville, all in the State of Ohio, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

Mr. CURTIS presented petitions of sundry citizens of the State of Kansas, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

Mr. HOPKINS presented a memorial of the Trades and Labor Assembly of Belleville, Ill., remonstrating against certain decisions of the judiciary against organized labor, which was referred to the Committee on the Judiciary.

Mr. HALE presented petitions of Local Grange of Fryeburg; of Crooked River Grange, No. 32, of Harrison; of West Brook Grange, of Highland Lake; of Local Grange No. 10, of North Jay; of Local Grange No. 214, of Pittston, all Patrons of Husbandry; and of sundry citizens of Palermo, all in the State of Maine, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

Mr. MCENERY presented a petition of sundry citizens of New Orleans, La., praying for the enactment of legislation granting pensions to the surviving members of the United States Military Telegraph Corps who served in the civil war, which was referred to the Committee on Pensions.

Mr. LA FOLLETTE presented a petition of sundry members of the bar of Milwaukee, Racine, Kenosha, Sheboygan, Fond du Lac, Green Bay, Manitowoc, Neenah, Eau Claire, Grand Rapids, Delavan, and Beaver Dam, all in the State of Wisconsin, praying for the enactment of legislation providing for an increase in the salaries of district and circuit court judges, which were referred to the Committee on the Judiciary.

He also presented a memorial of the Milwaukee Retail Grocers' Association, of Milwaukee, Wis., remonstrating against the passage of the so-called "parcels-post bill," which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry citizens of Wisconsin, praying for the enactment of legislation to investigate and develop methods of treatment of tuberculosis, which was referred to the Committee on Public Health and National Quarantine.

He also presented a petition of sundry citizens of Adams and Juneau counties, Wis., praying that an appropriation of $20,000 be made for the construction of an iron bridge across the Wisconsin River, which was referred to the Committee on Commerce.

He also presented a memorial of sundry citizens of Racine County, Wis., remonstrating against the enactment of legislation to prohibit Sunday banking in post-offices in the handling of money orders and registered letters and also against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of Rushford Grange, Patrons of Husbandry, of Ono, Wis., praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of sundry citizens of Janesville, Wis., praynig for the enactment of legislation to create a volunteer retired list in the War and Navy Departments for the surviving officers who served in the civil war, which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. McCUMBER, from the Committee on Pensions, to whom was referred the bill (H. R. 23849) granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors, reported it with amendments and submitted a report (No. 728) thereon.

Mr. SCOTT, from the Committee on Pensions, to whom was referred the bill (H. R. 23850) granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors, reported it with amendments and submitted a report (No. 729) thereon.

Mr. PILES, from the Committee on Commerce, to whom was referred the bill (H. R. 23866) to amend an act entitled "An act to authorize the construction of a bridge between Fort Snelling Reservation and St. Paul, Minn.," approved March 17, 1906, reported it without amendment.

Mr. CLAPP, from the Committee on Claims, to whom was referred the bill (S. 7971) for the relief of Samuel W. Campbell, reported it without amendment and submitted a report (No. 731) thereon.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the bill (S. 7631) to grant an honorable discharge from the navy to John McKinnon, alias John Mack, reported it with an amendment and submitted a report (No. 734) thereon.

Mr. FULTON, from the Committee on Claims, to whom was referred the bill (S. 4033) to satisfy certain claims against the Government arising under the Navy Department, reported it without amendment and submitted a report (No. 733) thereon.

He also, from the same committee, to whom was referred the bill (S. 4984) for the relief of James D. Elliott, reported it without amendment and submitted a report (No. 732) thereon.

Mr. SMOOT, from the Committee on Pensions, to whom was referred the bill (H. R. 24344) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the civil war, and to widows and dependent relatives of such soldiers and sailors, reported it without amendment and submitted a report (No. 730) thereon.

BILLS INTRODUCED.

Mr. PENROSE introduced a bill (S. 8358) providing for the free transportation of all mail matter sent by Mrs. Frances F. Cleveland, which was read twice by its title and referred to the Committee on Post-Offices and Post-Roads.

He also introduced a bill (S. 8359) to amend an act entitled "An act to extend the time for the completion of the Valdez, Marshall Pass and Northern Railroad, and for other purposes," approved February 21, 1907, which was read twice by its title and referred to the Committee on Territories.

He also introduced a bill (S. 8360) for the relief of the executor of the estate of William Boyle, deceased, which was read twice by its title and referred to the Committee on Finance.

He also introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 8361) granting an increase of pension to John Mack;

A bill (S. 8362) granting an increase of pension to William H. Fetter; and

A bill (S. 8363) granting a pension to Maggie Wickersham.

Mr. PENROSE introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 8364) granting an increase of pension to George M. Jordan; and

A bill (S. 8365) granting an increase of pension to Patrick Ambrose.

Mr. CLARK of Wyoming introduced a bill (S. 8366) to amend section 1014 of the Revised Statutes of the United States, which was read twice by its title and referred to the Committee on the Judiciary.

Mr. DICK introduced a bill (S. 8367) granting an increase of pension to Margaret W. Goodwin, which was read twice by its title and referred to the Committee on Pensions.

He also introduced a bill (S. 8368) to regulate the retirement of certain veterans of the civil war, which was read twice by its title and referred to the Committee on Military Affairs.

Mr. HEYBURN introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 8369) granting an increase of pension to James K. Watts;

A bill (S. 8370) granting an increase of pension to John Todd;

A bill (S. 8371) granting an increase of pension to Leander McGrew;

A bill (S. 8372) granting an increase of pension to Lafayette Platt;

A bill (S. 8373) granting an increase of pension to Simon Jenson;

A bill (S. 8374) granting an increase of pension to Michael Savage; and

A bill (S. 8375) granting an increase of pension to James R. Vassar.

Mr. HEYBURN introduced a bill (S. 8376) providing for the reappraisement of unsold lots in town sites on reclamation projects, and for other purposes, which was read twice by its title and referred to the Committee on Irrigation and Reclamation of Arid Lands.

Mr. FRYE introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 8377) granting a pension to Emma C. Orr; and

A bill (S. 8378) granting a pension to James Welch (with the accompanying papers).

Mr. FULTON introduced a bill (S. 8379) for the relief of the owners of the British steamship *Maroa*, which was read twice by its title and, with the accompanying papers, referred to the Committee on Claims.

Mr. MONEY introduced the following bills, which were severally read twice by their titles and referred to the Committee on Claims:

A bill (S. 8380) for the relief of the heirs of B. Strong;

A bill (S. 8381) for the relief of the heirs of M. L. Strong; and

A bill (S. 8382) for the relief of the heirs of E. Strong.

Mr. TAYLOR introduced a bill (S. 8383) for the relief of Louis L. Coleman, which was read twice by its title and referred to the Committee on Claims.

He also introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 8384) granting an increase of pension to Jesse M. Moore;

A bill (S. 8385) granting an increase of pension to Winslow Hart Reaves;

A bill (S. 8386) granting a pension to Darius Gregg;

A bill (S. 8387) granting a pension to William Manly (with the accompanying papers); and

A bill (S. 8388) granting an increase of pension to Francis M. Brannon.

Mr. BRIGGS introduced a bill (S. 8389) appropriating $10,000 to aid in the erection of a monument in memory of the late President James A. Garfield at Long Branch, N. J., which was read twice by its title and referred to the Committee on the Library.

Mr. BEVERIDGE introduced the following bills, which were severally read twice by their titles and referred to the Committee on Pensions:

A bill (S. 8390) granting an increase of pension to John Martin;

A bill (S. 8391) granting an increase of pension to Robert I. Patterson; and

A bill (S. 8392) granting an increase of pension to Henry M. Krouse.

Mr. BEVERIDGE introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 8393) granting an increase of pension to Samuel J. Taylor; and

A bill (S. 8394) granting a pension to Jane M. Harris.

Mr. LODGE introduced the following bills, which were severally read twice by their titles and referred to the Committee on the Judiciary:

A bill (S. 8395) incorporating the National Institute of Arts and Letters; and

A bill (S. 8396) incorporating the National Academy of Arts and Letters.

Mr. LODGE introduced the following bills, which were severally read twice by their titles:

A bill (S. 8397) to authorize the maintenance of actions for negligence causing death in maritime causes;

A bill (S. 8398) to permit the owners of certain vessels, and the owners or underwriters of cargoes laden thereon, to sue the United States; and

A bill (S. 8399) providing for liens on vessels for repairs, supplies, or other necessaries.

Mr. LODGE. I am not sure whether those bills should go to the Judiciary Committee or the Committee on Commerce. They propose changes in the law in regard to certain actions, but they are all actions to be taken in an admiralty court. Therefore I suppose the bills will properly go to the Judiciary Committee.

Mr. FRYE. Yes.

The VICE-PRESIDENT. The bills will be referred to the Committee on the Judiciary.

Mr. LODGE introduced a bill (S. 8400) granting an increase of pension to Don F. Willis, which was read twice by its title and referred to the Committee on Pensions.

Mr. WETMORE introduced a bill (S. 8401) granting an increase of pension to William F. Chappell, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

Mr. SMITH of Michigan introduced a bill (S. 8402) granting an increase of pension to Napoleon B. Bowker, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

Mr. DEPEW introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 8403) granting a pension to Augusta Hendricks; and

A bill (S. 8404) granting an increase of pension to Barbara Downer.

Mr. JOHNSTON introduced a bill (S. 8405) for the relief of the estate of Mrs. Susan Augusta Jones Wilson, deceased, which was read twice by its title and referred to the Committee on Claims.

Mr. HOPKINS introduced a bill (S. 8406) granting an increase of pension to Eugene H. Harding, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 8407) to amend an act to provide for the construction of a canal connecting the waters of the Atlantic and Pacific oceans, which was read twice by its title and referred to the Committee on Interoceanic Canals.

Mr. BORAH introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 8408) granting an increase of pension to Recorder M. Mudgett;

A bill (S. 8409) granting an increase of pension to David Sutherland;

A bill (S. 8410) granting an increase of pension to Amos W. Melugin; and

A bill (S. 8411) granting an increase of pension to Volney H. Maxwell.

Mr. CURTIS introduced a bill (S. 8412) granting an increase of pension to Hubbard D. Carr, which was read twice by its title and referred to the Committee on Pensions.

He also introduced a bill (S. 8413) for the relief of Cumberlain Smith, which was read twice by its title and referred to the Committee on Claims.

Mr. DOLLIVER introduced a bill (S. 8414) granting a pension to Susan C. Carpenter, which was read twice by its title and referred to the Committee on Pensions.

He also introduced the following bills, which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 8415) granting a pension to William J. Ludley; and

A bill (S. 8416) granting an increase of pension to Alvin Eck.

Mr. BEVERIDGE introduced a bill (S. 8417) granting a pension to George W. Clain, which was read twice by its title and referred to the Committee on Pensions.

He also introduced the following bills which were severally read twice by their titles and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 8418) granting an increase of pension to Benjamin F. Welker; and

A bill (S. 8419) granting an increase of pension to Theodore Pridemore.

Mr. McENERY introduced a bill (S. 8420) granting an increase of pension to Kate B. Jarvis, which was read twice by its title and referred to the Committee on Pensions.

Mr. LA FOLLETTE introduced a bill (S. 8421) granting an increase of pension to Henry F. Houser, which was read twice by its title and, with the accompanying papers, referred to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. KNOX submitted an amendment authorizing the President to appoint by and with the consent of the Senate an Under Secretary of State, and also a Fourth Assistant Secretary of State, etc., intended to be proposed by him to the legislative, etc., appropriation bill, which was referred to the Committee on Foreign Relations and ordered to be printed.

Mr. LONG submitted an amendment proposing to appropriate $90,000 to increase the limit of cost for an addition to the public building at Kansas City, Kans., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

AMENDMENTS TO OMNIBUS CLAIMS BILL.

Mr. CRANE (for Mr. BULKELEY) submitted three amendments intended to be proposed to the omnibus claims bill, which were ordered to lie on the table and be printed.

IMPERIAL VALLEY OR SALTON SINK REGION.

On motion of Mr. FLINT it was:

Ordered, That Senate Document No. 212, Fifty-ninth Congress, second session, "Imperial Valley or Salton Sink Region," be reprinted.

IMPROVEMENT OF HARBOR AT PORT SANILAC, MICH.

Mr. SMITH of Michigan submitted the following concurrent resolution (S. C. Res. 66), which, with the accompanying papers, was referred to the Committee on Commerce:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause a preliminary survey to be made of the harbor at Port Sanilac, Sanilac County, Mich., with a view to deepening the same to a depth of 20 feet, and to submit a plan and estimate for such improvement.

IMPROVEMENT OF HARBOR AT FORESTER, MICH.

Mr. SMITH of Michigan submitted the following concurrent resolution (S. C. Res. 67), which, with the accompanying papers, was referred to the Committee on Commerce:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause a preliminary survey to be made of the harbor at Forester, Mich., with a view to deepening the same to a depth of 20 feet, and to submit a plan and estimate for such improvement.

PAYMENTS FROM EMERGENCY FUND.

Mr. FORAKER submitted the following resolution (S. Res. 247), which was considered by unanimous consent and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, directed to report to the Senate in detail, item by item, all payments and expenditures and the purposes of the same, made out of the appropriation of $3,000,000, made in the deficiency act of March 3, 1899 (30 S. L., p. 1223), to be expended at the discretion of the President for emergency fund to meet contingencies constantly arising, which appropriation is in the following language:

"For emergency fund to meet unforeseen contingencies constantly arising, to be expended at the discretion of the President, $3,000,000."

COMPANIES B, C, AND D, TWENTY-FIFTH INFANTRY.

The Senate having under consideration the bill (S. 5729) providing for the reenlistment of the soldiers of the Twenty-fifth United States Infantry, discharged without honor, Mr. FORAKER said: Mr. President, in the first Brownsville message, sent to the Senate by the President December 19, 1906, when there was nothing before him except only the testimony collected by Major Blocksom and some private letters and official reports, he stated that, according to this testimony, it was shown that certain members of the battalion were guilty of the "murderous conduct of shooting up the town of Brownsville," and that many of the other members of these companies were guilty of a "conspiracy of silence" to save the criminals from justice.

Further commenting on this testimony, he said:

Major Blocksom's report is most careful, is based upon the testimony *of scores of eyewitnesses*—testimony which conflicted only in non-essentials and which established the essential facts *beyond chance of successful contradiction.*

He then sets forth the facts as established by Major Blocksom's investigation, and states that they "*have not been and, in my judgment, can not be successfully controverted.*"

He further states in this same message:

As to the noncommissioned officers and enlisted men, there *can be no doubt whatever* that many were necessarily privy, after if not before the attack, to the conduct of those who took actual part in this murderous riot. I refer to Major Blocksom's report for proof of the fact that *certainly some and probably all of the noncommissioned officers* in charge of quarters who were responsible for the gun racks and had keys thereto in their personal possession knew what men were engaged in the attack.

* * * * * * *

The *effort to confute* this testimony so far has consisted in the assertion or *implication that the townspeople shot one another* in order to discredit the soldiers—an *absurdity too gross to need discussion and unsupported by a shred of evidence.* There is no question as to the murder and the attempted murders; there *is no question that some of the soldiers* were guilty thereof; there is *no question* that *many* of their comrades, *privy to* the deed, have *combined to shelter the* criminals from justice.

Further along in his message, he says:

In short, *the evidence proves conclusively* that a number of the soldiers engaged in a deliberate and concerted attack, etc. * * * It (the attack) has been *supplemented* by *another,* only *less black,* in the shape of a *successful conspiracy of silence* for the purpose of shielding those who took part in the original conspiracy of murder.

In a later paragraph of this same message he says:

Yet *some of the noncommissioned* officers and *many of the men* of the *three companies* in question *have banded together in a conspiracy* to protect the *assassins* and *would-be assassins* who have disgraced their uniform by the conduct above related. *Many* of these noncommissioned officers and men *must have* known, and *all* of them *may* have known, circumstances which would have led to the conviction of those engaged in the murderous assault. They *have stolidly* and as *one man broken their* oaths of enlistment and refused to help discover the criminals.

All those declarations and repetitions of declarations were made in one message.

Anyone reading this message and not examining for himself the testimony upon which these statements are based would naturally conclude that the facts stated had been established by clear and overwhelming evidence, especially so if he had no previous knowledge of the President.

To show that this testimony upon which the President made these unqualified statements was utterly unreliable and that it failed absolutely to establish the facts so unqualifiedly set forth by him in his message, it was not necessary to do more than analyze it in the presence of the Senate.

By that analysis it was shown that, instead of "scores of eyewitnesses" to the shooting, there were only eight, all told, who even claimed to be eyewitnesses to any of the facts, and their testimony was so indefinite and uncertain as to be entirely insufficient to warrant the serious and unqualified conclusions that were drawn therefrom.

In recognition of the manifest weakness and insufficiency of this testimony when thus pointed out, the President directed Mr. Purdy, an assistant to the Attorney-General, and Major Blocksom to return to Brownsville and retake, *ex parte,* in affidavit form, without any notice whatever to the soldiers and without any representative of the soldiers present, the testimony that had been submitted and to gather such additional testimony as it might be possible to secure.

January 14, 1907, this testimony was submitted to the Senate by the President in a message in which he stated that he had directed it to be taken because the sufficiency of the testimony formerly submitted had been questioned, which was only one way of admitting that it had not stood the test to which it had been subjected.

Speaking of the new testimony, he says in this message that the exhibits attached to it, consisting of clips, bullets, and empty shells, were proof of themselves—

Conclusive that the new Springfield rifle was the weapon used by the midnight assassins, and could not by any possibility have been any other rifle of any kind in the world. This of itself establishes the fact that the assailants were United States soldiers, *and would be conclusive* on this point *if not one soldier had been seen or heard* by any residents in Brownsville on the night in question.

Speaking of the testimony of these eye-and-ear witnesses, he said:

The testimony of these eye-and-ear witnesses would establish beyond all possibility of contradiction the fact that the shooting was committed by 10 or 15 or more of the negro troops from the garrison, and this testimony of theirs would be amply sufficient in itself if not a cartridge or bullet had been found; exactly as the bullets and cartridges that were found would have established the guilt of the troops even had not a single eyewitness seen them or other witnesses heard them.

The testimony of the witnesses and the position of the bullet holes show that 15 or 20 of the negro troops gathered inside the fort, and that the first shots fired into the town were fired from within the fort; some of them, at least, from the upper galleries of the barracks.

Later on in his message, in his further comments upon this testimony, he says:

There is conflict of testimony on some of the minor points, but every essential point is established beyond possibility of honest question. * * *

Nobody could doubt and be honest about it.

Indeed, the fuller details as established by the additional evidence taken since I last communicated with the Senate make it likely that there were very few, if any, of the soldiers dismissed who could have been ignorant of what occurred. It is well-nigh impossible that any of the noncommissioned officers who were at the barracks should not have known what occurred.

The additional evidence thus taken renders it, in my opinion, impossible to question the conclusions upon which my order was based. I have gone most carefully over every issue of law and fact that has been raised.

Later, on March 11, 1908, after the Committee on Military Affairs had made its report, the President sent another message to the Senate, in which he sets forth that the Committee on Military Affairs "*finds that the facts upon which my order of discharge of November 9, 1906, was based are substantiated by the evidence.*"

Thereupon, he recommends, as a result of it all—though we had come to the end of taking testimony, as we all supposed, and had a right to suppose—that he be authorized by appropriate legislation to reinstate all who may be able to come forward and "*prove their innocence to his satisfaction!*"

It will be noted that the guilt of these soldiers, as charged by the President, was, according to the President, "conclusively" established by the testimony first submitted. He took occasion to repeat this in his first message over and over again. Why he should so often repeat it is inexplicable except upon the theory that he is, after all, like other men, and that, notwithstanding all he had said, he had some doubt about the sufficiency of the testimony upon which he had acted; for, if he had no doubt, there could have been no necessity for such unusual repetition of the statement of that fact. At any rate, it would at least appear to the ordinary mind that after the weakness and insufficiency of this testimony was pointed out he recognized the necessity for strengthening his case, and thereupon dispatched Mr. Purdy and Major Blocksom to Brownsville to secure the evidence reported by them.

When he submitted these affidavits to the Senate he again, as in his former message, affirmed that it "*conclusively and overwhelmingly*" established the guilt of the men, as charged by him, and went so far as to say that there was no room left for any "*honest difference*" of opinion, and to intimate that men who professed to have doubt had some unworthy motive prompting that doubt or that they merely pretended to have doubt in order that they might accomplish some unworthy purpose.

In the message he sent to the Senate after the report of the Committee on Military Affairs he reiterated that the facts claimed by him had been, by that testimony, *thoroughly established.*

Hence it was that when the committee reported everybody apparently supposed the investigation was ended, and if anyone had thought about it at all he surely would have supposed that the President, who had formally, in his messages to the Senate, over and over again, more than a dozen times, asserted that the testimony "overwhelmingly" and "conclusively" and "beyond any doubt" and so thoroughly as to admit of "no honest difference of opinion" about it established the guilt of the soldiers, would be content to rest upon the testimony that had in these numerous ways been gathered together.

But not so. As though conscious that, notwithstanding all his assertions and declarations as to the sufficiency of the testimony, it was, in fact, unreliable and insufficient to justify his order of discharge, we were favored with the further message of December 14, 1908, in which we were informed that detectives have been employed by the War Department and that they have been at work for months, ever since April 16, 1908, just a month, speaking in a round way, after the report was made by the Committee on Military Affairs of the Senate and while we were engaged here in this Chamber in discussing the case upon the merits of it as presented by the testimony so reported. Ever since that date these detectives have been traveling about over the country, visiting these discharged soldiers wherever they can find them, trying to secure from them incriminating statements and confessions of guilt, and as a result we now have another batch of "conclusive and overwhelming testimony which no honest man can doubt."

We learn from this message and the exhibits submitted therewith that these detectives have personally visited thirty States

of the Union, and that they have "located"—whatever that may mean—130 of these discharged soldiers. We are told that—

* * * the report and documents contain some information of great value and some statements that are obviously worthless, but I submit them in their entirety.

This report enables us to fix with *tolerable definiteness*—

Tolerable definiteness—

at least, some of the *criminals* who took the lead in the murderous shooting of private citizens at Brownsville. *It establishes clearly the fact that the colored soldiers did the shooting;* but upon this point further record was unnecessary, as the fact that the colored soldiers did the shooting has already been established beyond all possibility of doubt. The investigation has not gone far enough to enable us to determine all the facts, and we will proceed with it; but it has gone far enough to determine with sufficient accuracy certain facts of enough importance to make it advisable that I place the report before you. It *appears that almost all* the *members of Company B* must have been *actively concerned* in the shooting, either to the extent of *being participants* or to the extent of virtually *encouraging* those who were participants. As to Companies C and D, there *can be no question* that *practically every man in them must have had knowledge* that the shooting was done *by some of the* soldiers *of B Troop,* and *possibly* by *one or two others* in one of the other troops. This concealment was itself a grave offense, which was greatly aggravated by their testifying before the Senate committee that they were ignorant of what they must have known. Nevertheless, it is to be said in partial extenuation that they were *probably cowed by threats,* made by *the more desperate* of the men who had actually been engaged in the shooting—

Probable, *probable,* all the way through it is "probable," as though you were to convict men of murder upon probabilities, and they growing out of the imagination, not resting upon any testimony.

Probably cowed by threats, made by the more desperate of the men who had actually been engaged in the shooting as to what would happen to any man who failed to protect the wrongdoers. Moreover, there are *circumstances tending to show that these misguided men were encouraged by outsiders* to persist in their course of concealment and denial.

I do not know, but I suppose that has reference to a letter I wrote, which was read to the Senate when this report was sent to the Senate, a letter which every Senator knows who heard it read was free from anything whatever that would justify any such deduction.

I feel, therefore, that the guilt of the men who, after the event, thus shielded the perpetrators of the wrong by refusing to tell the truth about them, though serious, was in part due to the unwise and improper attitude of others, and that some measure of allowance should be made for the misconduct. In other words, *I believe we can afford to reinstate any of these men who can truthfully tell what has happened,* give all the aid they can to fix the responsibility upon those who are really guilty, and show that they themselves had no guilty knowledge beforehand and were in no way implicated in the affair, save by having knowledge of it afterwards and failing and refusing to divulge it. *Under the circumstances,* and *in view of the length of time* they have been out of the service, and their loss of the benefit that would have accrued to them by continuous long-time service, *we can afford to treat the men who meet the requirements* given above as having been sufficiently punished by the consequences they brought upon themselves when they rendered necessary the exercise of the disciplinary power. *I recommend that a law be passed allowing the Secretary of War, within a fixed period of time,* say, *a year,* to reinstate any of these soldiers whom he, after careful examination, finds to have been innocent, *and whom he finds to have done all in his power to help bring to justice the guilty.*

Meanwhile the investigation will be continued.

With this message and its exhibits before us, I felt it my duty to ask for full and detailed information, and as a result I offered a resolution calling therefor, which has been answered by the Secretary of War as follows.

I shall not stop to read it, but will ask to have it incorporated in my remarks as a part of them at this point as though read.

The VICE-PRESIDENT. Without objection, permission is granted.

The communication referred to is as follows:

[S. Doc. No. 626, 60th Cong., 2d sess.]

EMPLOYMENT OF HERBERT J. BROWNE AND W. G. BALDWIN BY THE WAR DEPARTMENT AT BROWNSVILLE.

Letter from the Secretary of War, transmitting, by direction of the President, in response to Senate resolution of December 16, 1908, a report as to when Herbert J. Browne and W. G. Baldwin were employed by the War Department to investigate what happened at Brownsville on the 13th and 14th of August, 1906, the terms of that employment, etc. January 5, 1909.—Referred to the Committee on Military Affairs and ordered to be printed.

WAR DEPARTMENT,
Washington, January 2, 1909.

SIR: I have the honor to acknowledge the receipt of a resolution adopted by the Senate on December 16, 1908, to the effect that—

"The Secretary of War be, and he is hereby, directed to report to the Senate when Herbert J. Browne and W. G. Baldwin, mentioned in the President's message of December 14, 1908, relating to the Brownsville shooting affray, were employed by the War Department to investigate what happened at Brownsville on the 13th and 14th of August, 1906, the terms of that employment, and whether any other; and, if so, *who were,* or at *any time have been, employed to assist them or to render a like service,* and *whether white or colored,* with *full names and residences of same;* and whether the said Herbert J. Browne and W. G. Baldwin and any others who may have been so employed are still in such employment, and under what instructions they have been acting; and if such instructions are in writing to send to the Senate a copy of the same; and what has been paid said parties, or any of them, on such account either as compensation for services rendered or on account of expenses by them incurred in connection with said employment; and also by what authority they, or any expense they may have incurred, were paid, and out of what fund or funds, giving such account item by item."

In response to the foregoing resolution I have the honor to submit the following report, by direction of the President:

Since the order directing the discharge of certain enlisted men of Companies B, C, and D of the Twenty-fifth Infantry was promulgated frequent applications for reenlistment have been received from former members of those organizations. As it appeared to the department that some members of the command had not participated in the unlawful acts which were alleged to have been committed on August 13–14, 1906, and with a view to enable testimony showing their nonparticipation in those occurrences to be submitted, an opportunity was extended to such as desired to appear for that purpose, and officers of the army were designated by my predecessor, Secretary Taft, to communicate with such applicants and to hear any testimony which could properly be considered in connection with their application for reenlistment. These hearings were directed to be held at places in the South which were convenient of access to the former members of the companies constituting the garrison at Brownsville. Applications continue to be received at the department from time to time in which the innocence of the applicants is confidently asserted and a desire to reenter the military service is expressed.

During a considerable portion of the time which has intervened since the discharges were executed, a committee of the Senate has been engaged in the prosecution of a similar inquiry, and as a result of such legislative interest two resolutions looking to the reinstatement of some of the discharged men have been introduced in the Senate and a day fixed for their consideration. In May last Mr. Herbert J. Browne, a journalist of this city, who, during a visit to Brownsville in April and May of 1907, had made the occurrence the subject of considerable study, was authorized by the department to undertake an independent investigation of the incident and to associate with him in that undertaking Mr. William G. Baldwin, *a railway detective of large experience* and *of unusual ability* in the prosecution of similar inquiries. Mr. Baldwin's character and capacity had been cordially commended to the department by the presidents of several of the principal lines of railway in the South.

As the *ordinary agencies* at the disposal of the Executive, which *had been employed from time to time with a view* to place the department in possession of the facts, had not *been completely successful, especially* in *determining what particular individuals, if any,* had *been engaged in the affair as participants,* it was determined by the President, as an incident of his authority as Commander in Chief, on the *recommendation of* the Secretary of War and in the execution of the discretion vested in him by the act of March 3, 1899, to accept the offer of Messrs. Browne and Baldwin and to place the conduct of the investigation in their hands.

To that end an expression of view from the *Judge-Advocate-General* as to the legality of the undertaking was called for, and it was *his opinion,* in view of the existing executive and legislative conditions above referred to, that a *contingency existed sufficiently urgent* in *character to bring it within* the operation of the *emergency* clause of the deficiency appropriation act of March 3, 1899 (30 Stat. L., 1223), which provided that—

"For emergency fund to meet unforeseen contingencies constantly arising, to be expended at the discretion of the President, $3,000,000."

The discretion provided for in the statute above cited having been exercised by the President, and an allotment of funds having been made in conformity to the requirements of the enactment above cited, an agreement was entered into with Messrs. Browne and Baldwin on April 16, 1908, in the operation of which they charged themselves with the duty of ascertaining *what members* of the regiment, *if any,* were engaged in the commission of unlawful acts on the night of August 13–14, 1906. In consideration of the service so rendered, the department undertook to pay the sum of $5,000 in installments, as provided for in their contract of April 16, 1908, a copy of which is attached to this report as Appendix A.

Considerable difficulties were encountered in locating the former members of the regiment, but before the expiration of the time mentioned in the contract *sufficient information* had been obtained to *warrant the department* in *continuing the investigation* under the same persons, and a supplemental agreement to that end was entered into on September 1, 1908, for a further consideration of $5,000. Payments under these agreements are fully set forth in Appendix D. The final report of Messrs. Browne and Baldwin, embodying the results of their investigations, was submitted to the department on December 5, 1908, and was duly transmitted to the Senate by the President.

The *whereabouts* of *some* of the former members of Company B, Twenty-fifth Infantry, whom the agents employed by the department had considerable difficulty in finding, *were finally traced and located,* and, as it seemed not only desirable but highly important to the public interest that the *part taken by them* in the disturbance should be determined, a new agreement looking to a further prosecution of the inquiry was entered into by the Judge-Advocate-General, with my approval, *on December 11, 1908.* The report of this supplemental investigation will be transmitted to the Senate as soon as it has been received and examined at the department.

The selection of individual agents in the prosecution of the inquiry was left to the contractors and, save as they are alluded to in their report of December 5, no reports have been received of the names of the agents so employed. I am *advised that a very considerable force was employed by the contractors, at an expense averaging considerably above $100 per day.* The instructions under which the contractors have acted in the prosecution of the inquiry are embodied in the contract of April 16, 1908, the details of the investigation, except as they were embodied in that instrument, being committed to their discretion. The contract of April 16, 1908, provides that—

"The parties of the first part shall conduct such investigation and inquiries into the conduct of certain enlisted men of the Twenty-fifth Infantry, at Brownsville, Tex., on the 13th and 14th days of August, 1906, as will enable the principal participants in such unlawful acts to be identified and determined. They shall also inquire into and investigate the facts connected with a subsequent conspiracy entered into by certain enlisted men of said regiment, with a view to prevent the identification and discovery of the participants in such unlawful acts and the identification and disclosure of the names of said participants. (Contract of April 16, 1908, Appendix A.)"

No specific instructions in writing have been communicated to the contractors at any time. Copies of the contracts are attached to this report as Appendices A, B, and C. I ask your especial attention to

the copy of a report from Secretary Taft to the President, dated April 16, 1908. For the reasons above stated, no account of expenses incurred by the contractors has been submitted to the department. The payments set forth in Exhibit D, all of which were made in the execution of the contracts hereinbefore referred to, constituted a charge against the deficiency appropriation act of March 3, 1899, from which the several obligations incurred in the operation of the undertakings hereinbefore referred to were satisfied.

Very respectfully,

LUKE E. WRIGHT,
Secretary of War.

The PRESIDENT UNITED STATES SENATE.

APPENDIX A.

These articles of agreement made this 16th day of April, 1908, between Herbert J. Browne and William G. Baldwin, of the first part, and the Secretary of War, acting for and on behalf of the United States, of the second part, witness, that it is hereby agreed between said parties as follows:

1. The parties of the first part shall conduct such investigation and inquiries into the conduct of certain enlisted men of the Twenty-fifth Infantry at Brownsville, Tex., on the 13th and 14th days of August, 1906, *as will enable the principal participants* in such *unlawful acts to be identified and determined.* They shall also inquire into and investigate the facts connected with *a subsequent conspiracy* entered into by certain enlisted men of said regiment with a view to prevent the identification and discovery of the participants in such unlawful acts and the identification and disclosure of the names of said participants.

2. The parties of the first part shall make and submit to the Secretary of War a preliminary report, in writing, of the information obtained by them, on or before May 10, 1908, and a final report containing the names of participants, accompanied by affidavits of witnesses and such other testimony as they shall have succeeded in obtaining, such final report to be submitted to the department not later than June 15, 1908.

3. In consideration hereof the United States shall make payments as follows: One thousand two hundred and fifty dollars to be paid to the parties of the first part on Monday, April 20, 1908; $1,250 on Monday, April 27, 1908; $1,250 on Saturday, May 16, 1908; and $1,250 on Saturday, May 30, 1908.

4. The party of the second part reserves the right to terminate this agreement, in the discretion of the Secretary of War, on May 15, 1908, by giving five days' telegraphic notice thereof to the parties of the first part, in which case the payments hereinbefore provided for after that date shall cease and shall not become payable to the parties of the first part.

Witness our signatures the date first hereinbefore written.

In presence of—

GEO. B. DAVIS, as to HERBERT J. BROWNE.
FRED W. CARPENTER, as to WM. G. BALDWIN.

WM. H. TAFT,
Secretary of War.

APPENDIX B.

These articles of agreement, made this 1st day of September, 1908, between Herbert J. Browne and William G. Baldwin, of the first part, and George B. Davis, Judge-Advocate-General, U. S. Army, acting for and on behalf of the United States, of the second part, witness, that it is hereby agreed between said parties as follows:

1. The parties of the first part shall conduct such investigation into certain unlawful acts committed by enlisted men of the Twenty-fifth Infantry at Brownsville, Tex., on the 13th and 14th days of August, 1906, as will enable the participants in such unlawful acts to be identified and determined. They shall also investigate the facts connected with a subsequent agreement among the enlisted men of said regiment with a view to prevent the identification and discovery of the participants in such unlawful acts, and the verification and disclosure of the names of said participants.

2. The parties of the first part shall report to the Judge-Advocate-General of the army, in writing, from time to time, any information obtained by them in connection with said investigation, and shall submit a final report, containing the names of participants, accompanied by affidavits of witnesses and such other testimony as they shall have succeeded in obtaining, such final report to be submitted to the department not later than October 10, 1908.

3. In consideration hereof the United States shall make payments to the parties of the first part as follows: Two thousand dollars to be paid to the parties of the first part on September 10, 1908; $1,000 on September 20, 1908; $1,000 on September 30, 1908; and $1,000 on October 10, 1908.

4. The party of the second part reserves the right to terminate this agreement, in the discretion of the Secretary of War, on September 30, 1908, by giving five days' telegraphic notice thereof to the parties of the first part, in which case the payments hereinbefore determined upon to be made after that date shall cease and shall not become payable to the parties of the first part.

Witness our signatures the date first hereinbefore written.

In presence of—

JNO. BIDDLE PORTER, as to HERBERT J. BROWNE.
ESTELLE L. MEADOWS. WILLIAM G. BALDWIN.
JAMES P. DODSON.
JNO. BIDDLE PORTER, as to GEO. B. DAVIS,
Judge-Advocate-General U. S. Army.
JAMES P. DODSON.

Approved.

LUKE E. WRIGHT,
Secretary of War.

APPENDIX C.

These articles of agreement, made this 11th day of December, 1908, between Herbert J. Browne, of the first part, and George B. Davis, Judge-Advocate-General, U. S. Army, acting for and on behalf of the United States, of the second part, witness, that it is hereby agreed between said parties as follows:

1. The party of the first part shall conduct such investigation into certain unlawful acts committed by enlisted men of the Twenty-fifth Infantry at Brownsville, Tex., on the 13th and 14th days of August, 1906, as will enable all the participants in such acts to be identified and determined. He shall also investigate the facts connected with a subsequent agreement among the enlisted men of said regiment with a view to prevent the identification and discovery of the participants in such unlawful acts, and the verification and disclosure of the names of said participants.

2. The party of the first part shall report to the Judge-Advocate-General of the Army, in writing, from time to time, such information obtained by him in connection with said investigation, and shall submit a final report, containing the names of all parties and accessories to said transactions, accompanied by affidavits of witnesses and such other testimony as he shall have succeeded in obtaining, such final report to be submitted to the department not later than January 15, 1909.

3. In consideration hereof the United States shall make payments to the party of the first part as follows: Two thousand five hundred dollars to be paid to the party of the first part on December 12, 1908, and $2,500 on January 1, 1909.

Witness our signatures the date first hereinbefore written.

HERBERT J. BROWNE.

In the presence of—
JNO. BIDDLE PORTER.
L. W. CALL.

GEORGE B. DAVIS,
Judge-Advocate-General, U. S. Army.

APPENDIX D.

WAR DEPARTMENT,
Washington, January 2, 1909.

Report of payments under the contracts with Herbert J. Browne and William G. Baldwin, dated April 16 and September 1, 1908, and with Herbert J. Browne, dated December 11, 1908:

April 24, 1908	$1,250.00
April 27, 1908	1,250.00
May 16, 1908	1,250.00
June 2, 1908	1,250.00
September 10, 1908	2,000.00
September 21, 1908	1,000.00
September 30, 1908	1,000.00
October 10, 1908	1,000.00
December 12, 1908	2,500.00
January 2, 1909	2,500.00
	15,000.00

Respectfully submitted.

SYDNEY E. SMITH,
Disbursing Clerk.

APPENDIX E.

[Confidential.]

WAR DEPARTMENT,
Washington, April 16, 1908.

MY DEAR MR. PRESIDENT: The Brownsville investigation before the Senate, while it *establishes beyond any reasonable doubt the correctness* of the conclusion reached by you on the report of the inspectors and the other evidence, *has done nothing to identify the particular members* of the battalion who did the shooting or who were accessories before or after the fact. If the bill now pending, introduced by Mr. WARREN, passes, it will throw upon you the duty of a further examination into the evidence to determine whether certain of those now discharged ought not to be restored *on the ground that they were not parties to the shooting,* did not *know the persons who did it,* and were unable to give any clues to the perpetrators. It becomes your duty, therefore, and that of the department, to make every effort possible to identify the men who did the shooting and to establish the innocence of as many as are innocent among those discharged.

In pursuit of that purpose I have had a conference with Herbert J. Browne, who, under circumstances not necessary to repeat, made an investigation into the circumstances of the affray, and is a journalist of considerable experience; and with Mr. W. G. Baldwin, *the head of a large detective agency* at Roanoke, Va., serving the three great railways that pass through that town. I have written to the presidents of the three railways which Mr. Baldwin serves to know whether he is considered by them to be trustworthy, reliable, and skillful, and *until I have an affirmative answer from them on this subject I shall not sign the contract.* The contract has been prepared by the Judge-Advocate-General. I have talked with Mr. Baldwin and with Mr. Browne, and they think that unless within thirty days the prospects of success are bright it would be useless to continue the investigation further. If, however, their clues are found, as they expect to find them, *through the use of the large force of detectives* in the employ of Mr. Baldwin, then thirty days further may be needed in order to render the proof satisfactory. There is, as you will see in the contract, the right to cancel the contract at the end of thirty days and thus save half of the expense proposed should it turn out that the effort is wholly useless. You will find written upon the back of the contract *a formal indorsement* and *authorization for you to sign in order* that the *money to satisfy the contract* may be withdrawn and paid from the appropriation there mentioned.

Very sincerely, yours,

WM. H. TAFT.

The PRESIDENT.

Mr. FORAKER. I want to make a few comments on the report before passing it.

In the resolution, in response to which this communication came to the Senate, I asked not only for the authority by which the detectives had been employed, but I asked to have the Secretary of War state the number of detectives who have been employed, whether they were white or colored, and if both, how many of each kind, and to give us the name and address of each. The Senate will remember that I asked also that he state out of what funds these men had been paid and were being paid. In this answer the Secretary of War says he is unable to state the number of detectives that have been employed and is unable to give us any information in regard to them, because the whole transaction was in the nature of a contract between the United States Government on the one part, represented by the Secretary of War, and Mr.

Herbert J. Browne and Mr. W. G. Baldwin, on the other part, representing themselves.

We are told that Mr. Browne is a journalist and that Mr. Baldwin is the head of one of the most important detective agencies in the country; that the details of the work were left to them and no instructions given them, except only such as were embodied in the contracts of which they submit copies. I will call attention to those in a moment.

The Secretary of War, in making this report to the Senate, says that Mr. Baldwin is a railway detective of large experience and of unusual ability. He further says:

As the ordinary agencies at the disposal of the Executive, which had been employed from time to time with a view to place the department in possession of the facts, had not been completely successful, especially in determining what particular individuals, if any, had been engaged in the affair as participants, it was determined by the President, as an incident of his authority as Commander in Chief, on the recommendation of the Secretary of War and in the execution of the discretion vested in him by the act of March 3, 1899, to accept the offer of Messrs. Browne and Baldwin and to place the conduct of the investigation in their hands.

It will be noted—and I want to comment on that in passing—that prior to the employment of these detectives, the departments and the Government usually had been employing all the facilities and agents of the "ordinary" kind to try to accomplish the results they are seeking now specifically to accomplish under this employment; that they had failed to accomplish any such results; in other words, that they had failed to identify any man in that battalion as a participator in that shooting affray; they had failed to identify any man in the battalion as guilty of this newly described crime—a conspiracy of silence—that they had failed to find one guilty of membership in that new order. So they resorted to the employment of these detectives.

I am going into this with some detail, because I have some remarks to make about it a little bit later. Now, when this was determined upon, the Secretary tells us:

To that end an expression of view from the Judge-Advocate-General as to the legality of the undertaking was called for, and it was his opinion, in view of the existing executive and legislative conditions above referred to, that a contingency existed sufficiently urgent in character to bring it within the operation of the emergency clause of the deficiency appropriation act of March 3, 1899 (30 Stat. L., 1223), which provided that—

"For emergency fund to meet unforeseen contingencies constantly arising, to be expended at the discretion of the President, $3,000,000." (Act of March 3, 1899, 30 Stat. L., 1223.)

He attaches copies of three contracts which were entered into between the Government and Mr. Browne and Mr. Baldwin. The first is dated April 16, 1908, and it recites that it is made between the United States and these parties, as I have already set forth.

1. The parties of the first part shall conduct such investigation and inquiries into the conduct of certain enlisted men of the Twenty-fifth Infantry at Brownsville, Tex., on the 13th and 14th days of August, 1906, as will enable the principal participants in such unlawful acts to be identified and determined. They shall also inquire into and investigate the facts connected with a subsequent conspiracy entered into by certain enlisted men of said regiment with a view to prevent the identification and discovery of the participants in such unlawful acts and the identification and disclosure of the names of said participants.

All that was to be done in consideration of the payment by the Government to Browne and Baldwin of the sum of $5,000, to be paid in four equal installments of $1,250 each.

The 1st day of September following a similar contract was entered into between Browne and Baldwin, of the first part, and the United States, represented by George B. Davis, Judge-Advocate-General of the United States Army. Five thousand dollars were to be paid under that. A third contract was entered into on the 11th day of December, after Congress had reconvened, and a few days before this matter was coming up as a special order of the Senate.

The third contract is between the United States and Herbert J. Browne alone. Mr. Baldwin's name is not mentioned in this contract, although I have been told he is still engaged in this important service. This contract undertakes to pay $5,000. There is an appendix attached, which shows that the whole $15,000 was contracted to be paid, and has been paid.

Under this last contract, on the 12th day of December $2,500 was paid, and on January 2, 1909, after the President had sent his report to the Senate and after enough had been presented here in answer to it to put him on guard that he was being imposed on, there was paid $2,500 more.

I am not using strong language when I say "after he had been imposed upon," and every Senator here will agree with me before I have concluded. My only astonishment is at my moderation.

On April 16, 1908—nine months ago—Herbert J. Browne says in his report that he was employed at that time and that he has been continuously engaged in this employment ever since. We have an account of only this $15,000 having been paid out, but Secretary Wright tells us in his report:

I am advised that a very considerable force—

Of detectives he was referring to—

was employed by the contractors at an expense averaging considerably above $100 per day.

At $100 a day the sum would amount to a great deal more in nine months than $15,000, and I have reason to believe that a much larger sum than $15,000 has been paid by the Government to these men and others to prosecute this infamous work.

Attached to this report is a very singular document. It is a letter from the then Secretary of War, Mr. William H. Taft, the President-elect, to the President. Mr. Taft was then a Cabinet officer; he was communicating to the President his opinion and his advice with respect to a very important public matter, a matter that every man in the country had a right to know all about, at least in due season; and yet this letter is marked "confidential." Why confidential? Let some one answer who can. But what I want to say is that, if properly confidential, why is it sent to the Senate now and given to the public in the way in which it has been? Why should there be any confidential communication of this character? But the fact that it is marked "confidential" does not detract from its importance in considering this case. It is dated April 16, the very day the contract was signed, and reads as follows:

APPENDIX E.

[Confidential.]

WAR DEPARTMENT,
Washington, April 16, 1908.

MY DEAR MR. PRESIDENT: The Brownsville investigation before the Senate, while it establishes beyond any reasonable doubt the correctness of the conclusion reached by you on the report of the inspectors and the other evidence, has done nothing to identify the particular members of the battalion who did the shooting or who were accessories before or after the fact. * * *

I call attention to that as a very important statement. Nearly two years had elapsed; these men had been examined over and over again; they had been subjected not only to examination and cross-examination, but to examinations of the most rigid character. They had been brought here to this great Capitol, where most of them had never before been; they were ushered into that committee room where were seated at a table 12 Senators who were examining and cross-examining these poor men, helpless and ignorant, without any assistance, except only such little as I might be able to give, and yet, simply because of the power of truth they were able to meet successfully all the efforts of the Government, both ordinary and extraordinary, to convict them—efforts of the Government they had been protecting during long years of faithful service—to convict them of a crime which, in my judgment, they had nothing whatever to do with, any more than the men sitting in this Chamber participated in it. This letter reads:

If the bill now pending, introduced by Mr. WARREN—

Evidently that meant Mr. WARNER—

passes, it will throw upon you—

The President—

the duty of a further examination into the evidence to determine whether certain of those now discharged ought not to be restored on the ground that they were not parties to the shooting, did not know the persons who did it, and were unable to give any clues to the perpetrators. It becomes your duty, therefore, and that of the department, to make every effort possible to identify the men who did the shooting, and to establish the innocence of as many as are innocent among those discharged.

In pursuit of that purpose I have had a conference with Herbert J. Browne, who, under circumstances not necessary to repeat, made an investigation into the circumstances of the affray, and is a journalist of considerable experience; and with Mr. W. G. Baldwin, the head of a large detective agency at Roanoke, Va., serving the three great railways that pass through that town. I have written to the presidents of the three railways which Mr. Baldwin serves to know whether he is considered by them to be trustworthy, reliable, and skillful, and until I have an affirmative answer from them on this subject I shall not sign the contract.

His letter is dated April 16. The contract purports to have been signed on that date. So he was not long in hearing, apparently:

The contract has been prepared by the Judge-Advocate-General. I have talked with Mr. Baldwin and with Mr. Browne, and they think that unless within thirty days the prospects of success are bright, it would be useless to continue the investigation further. If, however, their clews are found, as they expect to find them, through the use of the large force of detectives in the employ of Mr. Baldwin—

I call especial attention to this phrase—

If, however, their clews are found, as they expect to find them, through the use of the large force of detectives in the employ of Mr. Baldwin, then thirty days further may be needed in order to render the proof satisfactory. There is, as you will see in the contract, the right to cancel the contract at the end of thirty days, and thus save half of the expense proposed should it turn out that the effort is wholly useless. You will find written upon the back of the contract a formal indorsement and authorization for you to sign in order that the

money to satisfy the contract may be withdrawn and paid from the appropriation there mentioned.

Very sincerely, yours,

WM. H. TAFT.

The PRESIDENT.

This message of the President, with its exhibits, and this report of the Secretary of War present a new and most serious feature of this unhappy business. They not only disclose determined effort on the part of the President to again bolster up the case against these men, which he has heretofore, on numerous occasions, both officially and unofficially characterized as "conclusive" and "overwhelming," but that he has resorted to a method in his effort to secure such testimony that can not be fittingly characterized without the use of language which, if employed, might appear to be disrespectful to the Chief Executive. And worst of all, in this endeavor to secure such testimony the President has, himself, committed the serious offense—condemned by every court that administers the common law that has ever had occasion to speak on the subject—of holding out to these men an inducement, or a reward, for giving such testimony, in the form of reenlistment, with full pay, of which they had been deprived, and reinstatement to all their rights as soldiers.

It does not lessen the gravity of his offense that it appears to be imperceptible to him; or, if not so, that he has become utterly oblivious to all the restraints of law, decency, and propriety in his mad pursuit of these helpless victims of his ill-considered action. I shall be able to show, I think, that all this has been done without the authority of law and with public money that has been literally filched from the Public Treasury in flat defiance both of the Constitution of the United States and of statutes enacted by Congress applicable thereto.

I do not hesitate to say that in my opinion, aside from the question whether there has been a misappropriation of public funds, no precedent for anything so shocking can be found in all the history of American criminal jurisprudence.

It will appear from the President's message—and that is what I refer to when I say that, and the exhibits thereto attached showing the mode in which the detectives are operating, and the testimony in answer thereto, which I shall submit presently—that fraudulent impersonation, misrepresentation, lying, deceit, treachery, liquor, and intoxication, coupled with promises of immunity and the excitement of hope and fear and the offer of employment and remunerative wages, have been resorted to to secure the testimony sought for, and that the so-called "confessions" are not confined to such as affect the parties making them, or to those affected by them who may be present when such confessions are made, but extend also to those not present when they are made, but who are absent and without knowledge of what is transpiring, and without any opportunity whatever to be heard in their own defense, even to make an objection that such statements and such confessions are untruthful.

These facts make all such testimony utterly incompetent and worthless according to the decisions of all the courts in which is administered the common law.

The following letters show how they approached George W. Gray, one of the discharged soldiers, and with what proposals they sought to deceive him and make him their tool in the accomplishment of their purposes:

HOTEL RUFFNER,
Charleston, W. Va., December 17, 1908.

SENATOR FORAKER: I am a member of C Company, and was suppœnaed before the committee. Now, I have a point to lay before you. I have been troubled a great deal with Col. W. G. Baldwin. I had a very good job at the time, and Mr. Baldwin writes and offers me a job at $60 a month and expenses. I told him I would accept, so he asked me if I would go around and try to see if I could get anything out of them. I told him I would, as I was innocent and ignorant, and if the guilt could be found that easy, I would try. So there was nothing I found, and he tried very hard to get me to say something false; and after he found out he could not handle me, he failed to come up to his promise in regards to the pay. Then I came back, and since then he sends me $25 and asked me if I would make a statement that the shooting came from B Company, and there was none in C or D; and I have the letter that he sent me, his name signed, and I thought it might do you some good, and if you want the letter where he pays me to make a false statement, write to 500 Capitol street.

Respectfully,

G. W. GRAY.

And then he adds a postscript:

I have three or four of his letters.

That letter was received at Cincinnati in my absence. It was answered by one of my clerks, as follows:

CINCINNATI, OHIO,
December 23, 1908.

G. W. GRAY, Esq.,
No. 500 Capitol street, Charleston, W. Va.

DEAR SIR: In the absence of Senator Foraker, I write to acknowledge the receipt of your letter to him of the 17th instant, and to say that he will be home to-morrow, and it will then be brought to his attention. The information you give him is important. If you could send him the Baldwin letters, they might be very helpful to him. Anything you may send to him at No. 1004 Traction Building, Cincinnati, Ohio, will reach him promptly.

Hoping you will comply with the above suggestion, I remain,

Very truly, yours, etc.,

S. C. CHENOWETH.

In answer he sent me a number of letters, from which I quote only two:

Roanoke, Va., May 2, 1908—

These are but samples of what the others are—

ROANOKE, VA., *May 2, 1908.*

Mr. GEORGE W. GRAY, *Sun, W. Va.*

DEAR SIR: As your name has been handed me as a reliable colored man, who has served in the United States Army as a soldier, and in whom I could place confidence, I am writing you to know if you will accept a position under me at $60 per month and your expenses. If you are not engaged at this time, please reply at an early date in the inclosed envelope.

Very truly,

WALLACE L. GRAY,
P. O. Box 25, Roanoke, Va.

It turns out from the testimony that "Wallace L. Gray" was an alias name for W. G. Baldwin, the contractor and representative of the Government dealing with some of the discharged soldiers of the Government.

Here is the second letter he sent:

ROANOKE, VA., *October 8, 1908.*

Mr. GEO. W. GRAY,
Hotel Dunglen, Thurmond, W. Va.

DEAR SIR: Inclosed I hand you a check for twenty-five dollars ($25). I wish you would try and see if you can locate your brother or John Brown, who is in Philadelphia.

Could you make a statement that from the sounds of the guns and flashes that you are satisfied that the shooting came from B barrack, and that you are satisfied that no shots were fired by either C or D?

Yours, truly,

W. G. BALDWIN.

As reflecting further light on the operations of these representatives (?) of the Government, I call attention to the following letters:

Oklahoma City, December 20, 1908—

I might read many more if I cared to do so. I read just enough to show the scope of their operations and the character of them:

OKLAHOMA CITY, *December 20, 1908.*

DEAR SENATOR: I am writing to inform you that a Mr. Ward called to see me on the 15th instant and said that he had instructions from you to see me and get other information, if any, concerning the Brownsville affair.

He also stated that you had notified me to give him all the aid I possibly could, in order that he might see as many of the discharged soldiers as was in the city, which I did.

But since I have failed to hear from you, as he stated, thought I would call your attention to the matter.

I had no new information, as I don't know any more about the Brownsville affair now than I did when it first happened.

Best wishes for your success in the fight you are now in, for which we all feel proud.

Yours, truly, JERRY E. REEVES.

No. 225 West Grand avenue.

Reeves was a sergeant of one of the companies, and testified as a witness before the Military Affairs Committee.

Now, again:

OMAHA, NEBR., *December 22, 1908.*

MY DEAR SENATOR: Last Thursday a man who gave his name as G. S. Ward—

The same man, evidently, as the "Mr. Ward" referred to in the previous letter—

was in Omaha and called upon Corpl. J. A. Coltrane, who was in Company B of the Twenty-fifth Regiment when the company was discharged in 1906. He pretended to be representing you, and had with him a list of names which he claimed were the names of the soldiers who had confessed their complicity in the Brownsville affair.

He interviewed Corporal Coltrane for three hours and a half, but failed to get any information. But during the course of the interview he asked Corporal Coltrane if he had seen any communication from you since the Senate hearing. Corporal told him he had seen a letter which you had written to me concerning the affair. Your letter to me was dated May 18, 1908. Nothing further was said about the letter that night. However, on the following day Mr. Ward sent a telegram to Corporal Coltrane from Des Moines, Iowa, which read as follows: "Please request loan of letter from Senator FORAKER to Lawyer Pinkett and mail same to me, general delivery, Des Moines, Iowa."

* * * * * * *

He then goes on to say that he did not send my letter to him.

Thanking you for the fight you have made and are making, I am,

Sincerely,

H. J. PINKETT.

Senator J. B. FORAKER,
United States Senate, Washington, D. C.

I do not know Lawyer Pinkett. He is somebody who wrote me in regard to it, and, if he is so disposed, he can publish my letter to all the world; for, Mr. President, let it be said and understood now, once and for all, that I have written no letter or word of any kind to any human being on earth in regard to this or any other matter, so far as that is concerned, that the world may not know about if it wants to; and I give my per-

mission without any qualification whatever for such publication. I have doubtless written some letters that might need explanation. I may have written some letters, as perhaps every other man has, that I would not have written if I had at the time of writing the benefit of information subsequently acquired; but I never wrote a line since I left my mother's knee that all the world might not see. I may have written what might need explanation, but it would not require any lying, or any dodging, or any misrepresentation, or any evasion on my part, to satisfy anybody that it was honest, sincere, and truthful, as I understood the truth.

But, resuming, we have a lot of men employed as hired detectives, going about over the country to convict men of a crime that I do not believe them guilty of; and, in connection with that, trying to pry out something in the nature of private correspondence that might be sent to the Senate, as another communication has been recently sent to the Senate.

If I show zeal in commenting upon this or display any energy, it is not through anger, but only because of that indignant resentment which any self-respecting man must feel to be spied upon by paid detectives at the expense of the Government he is himself trying to serve, employed to hound him, and this, that, and every other man. Mr. President, no language is adequate fittingly to describe such a shameful performance, and I do not exempt anybody who is connected with it from that remark, from the highest to the lowest.

These men wrote similar letters to Boyd Conyers and then sought to mislead and entrap him with slanderous lies that his comrades were "peaching," as he expressed it, and that if he would escape arrest and extradition to Texas, from where he would probably never return to his young wife and child, he, too, must make a statement falsely accusing his absent comrades; and then, when he refused to comply, asserting his innocence, they fabricated a story of confession and attempted suicide, which was a base falsehood from beginning to end, as I shall completely, and to the satisfaction of every man who hears or will read, show by the testimony I shall offer.

In all the history of crime and its detection nothing more atrocious, disreputable, and disgraceful has ever been recorded.

It seems a waste of time to cite cases in support of propositions so elementary as that confessions involving criminal guilt are never permitted in any court, unless it can be shown that they were given voluntarily, without inducement or hope of reward, or promise of immunity, or without any duress, or without any suggestion of benefit of any kind or nature whatsoever to the party making the confession. This elementary principle of the law was well known to the detective, Herbert J. Browne, who made the report transmitted to the Senate by the President, for in it he takes care to say that "no promises of immunity were made."

This statement falls to the ground, however, with all the rest of his wicked fabrications, in the presence of the established facts, as I shall presently establish them.

This is not the first time men have resorted to misrepresentation to make it appear that so-called "confessions" secured by them were voluntary.

The case of Bram *v.* United States (168 U. S., p. 532) is an illustration in point. It shows how jealously the law, and the courts in expounding the law, protect men who are accused of crime from the danger of conviction upon such testimony. In that case three homicides had been committed on the high seas. It was claimed that Bram, the accused, had made a confession. The officer to whom it was alleged he made the confession testified, in response to the interrogatories of the court, as follows:

> Q. You say there was no inducement to him in the way of promise or expectation of advantage?—A. Not any, your honor.
> Q. Held out?—A. Not any, your honor.
> Q. Nor anything said in the way of suggestion to him that he might suffer if he did not—that it might be worse for him?—A. No, sir; not any.
> Q. So far as you were concerned, it was entirely voluntary?—A. Voluntary, indeed.
> Q. No influence on your part exerted to persuade him one way or the other?—A. None whatever, sir; none whatever.

These statements were made under oath; they were made in the presence of the court; they were made in answer to interrogatories propounded by the judge presiding over the court; and such were the answers.

Thereupon counsel for the defendant interrupted the examination the court was making and urged that inasmuch as the defendant was at the time of his alleged confession in the custody of the officer to whom he had made his alleged confession his statement could not be free and voluntary, as the law required to make it competent.

The objection was overruled, and the defendant excepted.

Thereupon the officer, in response to the inquiries of the court, continued his statement, as follows:

> When Mr. Bram came into my office, I said to him: "Bram, we are trying to unravel this horrible mystery." I said: "Your position is rather an awkward one. I have had Brown—

He was another man charged with complicity in the crime and was under arrest—

> in this office, and he made a statement that he saw you do the murder." He said: "He could not have seen me. Where was he?" I said: "He states he was at the wheel." "Well," he said, "he could not see me from there." I said: "Now, look here, Bram; I am satisfied that you killed the captain, from all I have heard from Mr. Brown. But," I said, "some of us here think you could not have done all that crime alone. If you had an accomplice, you should say so and not have the blame of this horrible crime on your own shoulders." He said: "Well, I *think*, and many others on board the ship *think*, that Brown is the murderer; but I don't know anything about it." He was rather short in his replies.
> Q. Anything further said by either of you?—A. No; there was nothing further said on that occasion.

It should be stated that not only was Bram accused of the murder of the captain of the vessel and two others on board, but also the man Brown, referred to in the examination, was similarly accused. Brown was not present when Bram made his alleged confession.

It will be noted that this officer, who is shown by the record in the case to have been one of many years' experience, testified that he held out no inducement and made no suggestion calculated to influence the accused to make a confession; and yet under examination he was compelled to testify that he told the accused that his position was an awkward one, and that Brown, the other defendant, had been in that same office and had made a statement that he saw him (Bram) commit the murders, and that he told Bram that he was satisfied that he was guilty from what he had heard from Brown, but that some of them thought he (Bram) could not have done all that crime alone, and if he had an accomplice he should say so and not have all the blame saddled upon his shoulders.

Notwithstanding these statements, the trial court admitted the confession; but the Supreme Court, in reviewing the case, among other things, said:

> In 3 Russell on Crimes (6th ed.), 478, it is stated as follows: "But a confession, in order to be admissible, must be free and voluntary; that is, must not be extracted by any sort of threats or violence, nor obtained by any direct or implied promises, *however slight*, nor by the exertion of any improper influence. * * * A confession can never be received in evidence where the prisoner has been influenced by any threat or promise, for the law can not measure the force of the influence used or decide upon its effect upon the mind of the prisoner, and therefore excludes the declaration if any degree of influence has been exerted."
> And this summary of the law is in harmony with the doctrine as expressed by other writers, although the form in which they couch its statement may be different. (Citing Greenleaf, Wharton, Taylor, Bishop, etc.)
> These writers but express the result of a multitude of American and English cases, which will be found collected by the authors and editors either in the text or in notes, especially in the ninth edition of Taylor, second volume, tenth chapter, and the American notes, following pages 588, where a very full reference is made to decided cases. The statement of the rule is also in entire accord with the decisions of this court on the subject. (Citing 110 U. S., 574; 156 U. S., 51, 55; 160 U. S., 355; and 162 U. S., 613.)

After a rather elaborate discussion of the whole subject and the citation of many authorities, the court proceeds, at page 546, to say:

> Gilbert, in his Treatise on Evidence (2d ed., published in 1760), says, at page 140: "* * * But then this confession must be voluntary and without compulsion; for our law in this differs from the civil law, that it will not force any man to accuse himself; and in this we do certainly follow the law of nature, which commands every man to endeavor his own preservation; and therefore pain and force may compel men to confess what is not the truth of facts, and consequently such extorted confessions are not to be depended on."

In support of its ruling, the court, on page 547, among other quotations, gives the following as a note to Gilham's case, 2 Moody, pages 194–195:

> The human mind, under the pressure of calamity, is easily seduced; and is liable, in the alarm of danger, to acknowledge indiscriminately a falsehood or a truth, as different agitations may prevail. A confession, therefore, whether made upon an official examination or in discourse with private persons, which is obtained from a defendant, either by the flattery of hope, or by the impressions of fear, however slightly the emotions may be implanted, is not admissible evidence, for the law will not suffer a prisoner to be made the deluded instrument of his own conviction.

The quotations I have made were in cases where the accused were in the custody of the law, under arrest, and charged with crime, and in some instances indicted and being proceeded against. The soldiers from whom these detectives are now, by the methods shown, seeking to get confessions and statements that will show guilt, are not under indictment nor under arrest, for the controlling reason, among others, that there is no testimony on which to find an indictment and no testimony to warrant any man in taking the responsibility of causing the arrest of any one of them.

It will be remembered that 12 of them were arrested immediately after the affray, at the suggestion of Captain McDonald, of the Texas Rangers, and that they were held in custody at San Antonio until the grand jury of Cameron County, Tex., in which Brownsville is situated, could investigate and determine whether or not they should be indicted; and that this grand jury, after investigating the charges against these 12 men for a period of three weeks, found that there was not even probable cause on which to indict any one of them, and they were thereupon discharged.

But the books are full of cases where so-called "confessions," when made after mere accusation but before arrest and when there was no official duress and no proceeding against the accused of any kind, were held to be incompetent upon the same general principles that are applied in the rulings already quoted—if the inducements or threats or rewards or punishments or persuasions were held out by one claiming to represent or have authority to speak for the Government.

In Rex *v.* Thompson (1783), 1 Leach (4th ed.), 291, cited in Bram *v.* United States (168 U. S., 551) it was held that—

> * * * A declaration to a *suspected* person that unless he gave a more satisfactory account of his connection with a stolen bank note his interrogator would take him before a magistrate was held equivalent to stating that it would be better to confess, and to have operated to lead the prisoner to believe that he would not be taken before a magistrate if he confessed. Baron Hotham, after commenting upon the evidence, in substance and said that the prisoner was hardly a free agent at the time, as, though the language addressed to him scarcely amounted to a threat, it was certainly a strong invitation to the prisoner to confess, the manner in which it has been expressed rendering it more efficacious.

As illustrating how careful the law is in protecting the accused from confessions that are not absolutely voluntary and free from fear, threat, menace, persuasion, or hope of reward, the Supreme Court has in the Bram case cited, at page 552, numerous cases, from which are culled the following:

> In Cass's case (1784) (1 Leach, 293), a confession induced by the statement of the prosecutor to the accused, "I am in great distress about my irons; if you will tell me where they are, I will be favorable to you," was held inadmissible. Mr. Justice Gould said that the slightest hopes of mercy held out to a prisoner to induce him to disclose the fact was sufficient to invalidate a confession.

In Rex *v.* Griffin, decided in 1809 (Russ & Ry., 151), a statement made by a prisoner was rejected because it was shown that he had been told that "it would be better for him to confess."

In another case it was held by the same court that the statement of the prisoner should be rejected because it was shown that the prosecuting witness said to the accused that—

> He only wanted his money, and if the prisoner gave him that, he might go to the devil if he pleased.

In another case, decided in 1830 (reported in 4 Car. & P., 387), a so-called "confession" was rejected because it was shown that some one said to the prisoner:

> You are under suspicion of this, and you had better tell all you know.

The same ruling was made in the case of Rex *v.* Enoch and Pulley, decided in 1833, because it was shown that some one said to the prisoner:

> You had better tell the truth, or it will lie upon you and the man go free.

In Rex *v.* Mills, cited in the same connection, the confession was rejected when it was shown that it was said to the prisoner:

> It is no use for you to deny it, for there is a man and the boy who will swear they saw you do it.

While in Sherrington's case the same ruling was made because it was shown that the remark was made to the prisoner:

> There is no doubt thou wilt be found guilty: It will be better for you if you will confess.

In another case the confession was rejected because it was shown that the prisoner was told:

> You had better split and not suffer for all of them.

The ground of rejection in another case was the statement to the prisoner:

> If you are guilty, do confess. It will perhaps save your neck. You will have to go to prison. If William H. (another person suspected, and whom the prisoner had charged) is found clear, the guilt will fall on you. Pray tell me if you did it.

In Reg. *v.* Croydon, decided in 1846, the confession was rejected because it was shown that it was said to the witness:

> I dare say you had a hand in it; you may as well tell me all about it.

While in the case of Reg. *v.* Garner the ground of objection was the statement to the prisoner:

> It will be better for you to speak out.

So I might go on and cite a dozen more cases similar in character.

It will be noted that in no one of these cases was there any promise of immunity, but only the suggestion, in an advisory way, that it would probably secure favor or redound to the benefit of the prisoner if he should make a confession. These are all English cases, but they are all cited with approval by the Supreme Court of the United States.

Numerous American cases of the same general character are also cited in this same opinion.

Before turning away from the English cases I call attention to another—the latest of the decisions cited by our Supreme Court. It was that of Reg. *v.* Thompson (2 Q. B., 12). Our Supreme Court, in citing this case and the rule made, says:

> At the trial a confession was offered in evidence which had been made by the defendant *before his arrest* upon the charge of having embezzled funds of a certain corporation. Objection was interposed to its reception in evidence, on the ground that it had been made under the operation of an inducement held out by the chairman of the company in a statement *to a relative* of the accused, intended to be and actually communicated to the latter, that "it will be the right thing for Marcellus (the accused) to make a clean breast of it." * * * And added: "If these principles and the reasons for them are, as it seems impossible to doubt, well founded, they afford to magistrates a simple test by which the admissibility of a confession may be decided. They have to ask, Is it proved affirmatively that the confession was free and voluntary—that is, was it preceded by any inducement to make a statement held out by a person in authority? If so, and the inducement has not clearly been removed before the statement was made, evidence of the statement is inadmissible."

Coming to the American authorities, the court said (p. 557):

> In this court the general rule that the confession must be free and voluntary—that is, not produced by inducements engendering either hope or fear—is settled by the authorities referred to at the outset.

After reviewing the American cases and the statutory provisions of some of the States, and pointing out how, by the courts of the different States, confessions had been rejected and the grounds therefor, the court reviewed the facts of the case as heretofore set forth, and held that they showed that the confession was not voluntary and that the court below erred in admitting it.

Applying now what the Supreme Court of the United States has in this recent case held to be the law governing the admissibility of confessions and incriminating statements as evidence to establish guilt, it will be found from an examination of the testimony already produced that the so-called "confessions and statements" relied upon to again establish the guilt of these soldiers is wholly inadmissible as evidence, and that not only is the testimony itself condemned by all authority as unreliable and incompetent, but also the methods whereby it has been secured. They are condemned as contrary to the elementary principles of common-law justice and as so unworthy and reprehensible in character that nothing so produced will be received, but all must be condemned and excluded wherever human life or human rights or human liberty may be involved.

If, therefore, the statements of Browne, Lawson, Baldwin, and others, acting under employment by the War Department and under the immediate direction of the President, to whom they personally report, were absolutely truthful, all that they have done would be incompetent, according to all authority, as evidence to show the guilt of any of these discharged soldiers, either as participators in the shooting affray or as participators in a conspiracy of silence to withhold knowledge of facts that might lead to the identification of those who did participate.

But, happily for these unfortunate soldiers, it is not necessary for them or for me, speaking in their behalf, to rely upon any technical objections to the legality or sufficiency or propriety of this kind of testimony or the unwarranted and unlawful methods whereby it has been secured.

It will be remembered that when the President's message of December 14, 1908, was read in the Senate I immediately read in answer thereto a number of letters from Boyd Conyers, the discharged soldier who is charged with being one of the leaders in getting up the conspiracy, and in executing it, to shoot up the town of Brownsville, which letters by chance I had with me at my desk that morning. He is now living at Monroe, Ga., and it was charged that he had made a confession. In the letters he fully and unqualifiedly denied and refuted all that was said against him in that regard. I called attention to the fact while engaged in reading these letters that, according to his statements, the sheriff of the county, Hon. E. C. Arnold, and Captain Mobley, a cashier in one of the banks, and other citizens—white men of character and position—were shown by the letters to have knowledge as to the truthfulness of what Conyers had written, and that if his statements were not true, as I believed them to be, it would be easy by the testimony of such men to overthrow his defense.

On the next day there appeared in all the newspapers an Associated Press dispatch giving an interview with Hon. E. C. Arnold, of Monroe, Ga., sheriff of Walton County, fully confirming and supporting all the statements of Conyers and deny-

ing the truthfulness of all the essential statements of Browne and the detectives.

The letters of Conyers, coupled with this confirmation from Sheriff Arnold, at once satisfied every fair-minded man from one ocean to the other who wanted to look at this matter honestly that the so-called testimony submitted by Browne, Baldwin, et al., was unworthy of credence. But I am now able to answer those charges more specifically and completely. I invite the attention of the Senate to the following affidavits and unsworn statement of Capt. Albert B. Mobley.

I have copied them as they are here on this table, and any Senator who wishes may examine the originals, because I have been accused of so much in this matter that I do not want to take anything for granted. I have been accused, I hope, of about all I will ever be accused of. There is ahead—not far ahead—of us a time when men will not lightly fall into such invective and such base charges and insinuations, when they will be out of power and where they can be called to account as other men can be called to account.

I read first the affidavit of Boyd Conyers:

GEORGIA, *Walton County:*

In person appeared before me Boyd Conyers, who on being duly sworn deposes and says: The statements made by me in the several letters written by me to Senator FORAKER and published in the CONGRESSIONAL RECORD of December 14, 1908, are true.

Senators will remember the report that Boyd Conyers made a confession to William Lawson, a negro detective, ignorant and illiterate, who signed his name with his mark. He gave the day and date that the confession was made to him. Then Browne testified under oath that he interviewed Conyers in Georgia and secured a confession. Here is what Conyers says under oath:

I desire to further say that I did not have any conversation with William Lawson, the negro detective, as stated by him, on the morning of June 8, because I was at work 3 miles from the city of Monroe at that time, helping to grade the target range for Company H, Second Georgia Regiment, National Guard. I did not go to Gainesville, as stated by him, on the negro excursion June 15, for I was at work cleaning up the post-office until dinner time that day, and after dinner I went out to the target range and helped to put up the targets. I did not see and talk to him on June the 29th, as stated by him, for my wife was dangerously sick at that time and expected to die. I never did at any time have any private talk with him, and I most solemnly swear that every word of his statement as to talks had with me or confessions made by me to him, or statements made by me to him, in regard to the Brownsville affair, or affecting me in any way, is utterly and absolutely false.

I desire to say, further, that Sheriff E. C. Arnold was present at all of the interviews between Mr. Herbert J. Browne and me and took an active part in trying to get me to make a confession. He knows, for he was present and heard every word that I said, that I made no confession, that I denied all the time knowing anything about it; and I here say that I made no confession of any kind to Mr. Browne, and that the statement or report made by him and published in the CONGRESSIONAL RECORD of December 14, in so far as the same refers to me or affects me in any way, is not true, but a misrepresentation of the real truth.

BOYD CONYERS.

Sworn to and subscribed to before me January 4, 1909.

J. O. LAWRENCE,
Notary Public, ex-officio Justice of the Peace,
Walton County, Ga.

Now I will read the affidavit of E. C. Arnold. I see present the junior Senator from Georgia [Mr. CLAY]. I should like to know whether he knows E. C. Arnold, sheriff of Walton County; and if so, what kind of a man he is.

Mr. CLAY. I have known Mr. Arnold for fifteen or twenty years. He is a most excellent man in every respect.

Mr. FORAKER. I should judge so from this affidavit and from the position he holds in his county. I do not think Mr. Arnold needs a certificate of character, except only to those who imagine that every man who does not agree to what is put out from certain places is dishonest or actuated by some unworthy purpose or motive. I venture to say he would compare favorably either with Herbert J. Browne or William Lawson.

STATE OF GEORGIA, *Walton County:*

In person appeared before me E. C. Arnold, who, after being duly sworn, deposes and says:

I am at present and have been for twelve years the sheriff of Walton County, residing in the city of Monroe. For several years prior to my election to the office of sheriff I was chief of police of Monroe. I have recently been elected ordinary of the county, and will begin the duties of that office to-morrow, January 1, 1909. I desire to say that I know very little about the statements made by William Lawson, the negro detective, in his affidavit published in the CONGRESSIONAL RECORD of December 14 as to the conversations had with and confessions made to him by Boyd (Buddie) Conyers.

He is apparently known there as "Buddie"—

But I do know, in all reason, that that part of his statement about he and Conyers "stopping under a storehouse porch near Main street and taking a drink or two of liquor" is necessarily false. There is only one such place that he could have reference to, and that is right in the business heart of the city, in full view of the court-house, of the public square, the city hall, and other public buildings. In fact, it is one of the most public and conspicuous places in the city, and in my opinion it would have been impossible for them to have taken a drink at that place without being seen and cases made against them in the police court.

As to the report made by Herbert J. Browne and published in the CONGRESSIONAL RECORD of December 14, I desire to say that on the morning of October 6 Hon. George M. Napier, who until recently was judge-advocate-general of the state troops (national guard), came into the court room, court then being in session, and requested me to come over to his law office, as he wanted to see me on some important business. In a little while I went to his office, where he introduced to me Mr. Herbert J. Browne as a special agent of the Government sent here to investigate the Brownsville raid. Captain Napier told me that Gov. Hoke Smith had called him up over the phone and had requested him to see me and ask me to assist Mr. Browne in every possible way in the matter. I talked over the matter fully with Mr. Browne during the day, arranging plans and details. Early after supper I had Boyd Conyers to meet us at my office. I fastened the doors, so no one could interrupt us, and then we put him through the most rigid examination I have ever seen any person subjected to in all of my long experience in dealing with criminals. I had always believed that some of the soldiers "shot up Brownsville," and for this reason I was glad of an opportunity to aid in getting at the bottom of it, finding out the guilty ones, so that they might be properly punished. I, therefore, went into the matter with Mr. Browne with my whole heart in the work. We kept Conyers under a most severe cross-examination until about 11 o'clock that night, but without getting any information, he positively denying all the time that he knew anything to tell, as he was asleep at the time of the shooting. We then adjourned for the night, but made an engagement with him to meet us the next morning. Conyers came promptly, but Mr. Browne, in the meantime, had changed his plans and decided to go back to Atlanta, so we had no conference with Conyers that morning. At noon of October 11 Mr. Browne returned to Monroe, and just after dinner I went for Conyers and had him come to my office. We again kept him under a most rigid examination until after dark. I was personally present all the time at both of these interviews, assisting Mr. Browne in every way possible, and heard everything that was said. On both of these occasions we used all the power, skill, and means at our command to get a confession out of Conyers or to get him to tell who did the shooting, but he continued to deny knowing anything about it. Mr. Browne had told me that Conyers had made a confession to William Lawson, the negro detective, but that he wanted to get a confirmation of it direct from Conyers. He *said that he was direct from the President—*

And he was; and he was acting under his immediate direction and upon his suggestion in this matter, infamous as it is—

and was prepared to offer Conyers absolute immunity from any punishment and a pardon from the President if he would only tell what he knew. Conyers had known me all of his life and had absolute confidence in my ability to carry out any promise I made him. *I told him that if he would just tell the whole thing—just own up and tell it—no matter how guilty he might be, I had it in my power to see that he was pardoned and would not be punished, but if he did not tell it and it had to be proved on him, then he would be severely punished. We made all sorts of promises to him—*

Remember the authorities that I have read. It seemed tedious when I was reading them, but I was reading them because they fit this case, and I want Senators to know how judges in administering our law comment on such performances as this.

We made all sorts of promises to him; then we told him *what the consequences would be if he did not tell it,* but he still denied knowing anything or who did the shooting. Mr. Browne then told him about his confession to Lawson. Conyers said Lawson had lied; that he had had no talk with Lawson about the matter. Then Mr. Browne told him that about *twenty of the soldiers were talking already* and *telling it,* and that *the truth was coming out,* and *if he wanted to escape punishment he had better tell it.* Conyers *still denied* knowing anything, or who did the shooting. I desire to state further that *I have carefully read the several letters* written by Boyd Conyers to Senator FORAKER in regard to what took place between him and Mr. Browne, published in the CONGRESSIONAL RECORD of December 14, and the *whole thing took place just as he has outlined it in these letters,* only he omitted to state the part taken by me in the matter. *The details as set out by him in these letters are stated with remarkable accuracy.*

Mr. Browne told Conyers, in my presence, that Lawson had told him that Conyers made the confession to him on the excursion trip to Gainesville. Conyers told Mr. Browne that Lawson had lied, because he, Conyers, did not go to Gainesville on the excursion, and could prove it. I desire to state further that the report—

Now, I call careful attention to this:

I desire to state further that the report of Mr. Herbert J. Browne in this matter as published in the CONGRESSIONAL RECORD *of December 14,* in so far as the same relates to these conversations with Boyd Conyers, *is not true. To the contrary, and I say it under my solemn oath, it is the most absolutely false, the most willful misrepresentation of the truth, and the most shameful perversion of what really did take place between them that I have ever seen over the signature of any person.*

Yet a President of the United States, acting through the Secretary of War, is continuing the employment of a man who is infamous scoundrel enough to thus undertake to impose upon the President and upon the Senate, and this is being continued after warning was given from here of the character of this man Browne.

If I speak plainly, Mr. President, it is because we have reached the point where only plain talk would seem to properly meet the requirements of the case.

Now, that is not all—

The most willful misrepresentation of the truth, and the most shameful perversion of what really did take place between them that I have ever seen over the signature of any person. Surely Mr. Browne must have thought that this report would never be seen or read by me, or he would not have made it. I was both *shocked and horrified when I read it.*

I wish somebody else, who prates about the dishonesty of other people, would be shocked and horrified by something.

When we *had utterly failed* to get a confession or any information out of Conyers as to who did the shooting, then Mr. Browne asked him to give the names of some of the baseball players and also the names of some of the most reckless and turbulent members of his company. This Conyers did, giving several names, and these same names, so given by Conyers in my presence, Mr. Browne, in his report, says were furnished him by Conyers as the ones participating in the shooting. I point this out as a fair example as to how Mr. Browne has perverted the truth and the real facts in the case in his report.

I will state further that Mr. W. G. Baldwin came here. He told me that the letter purporting to be written by James Powell, as published in the CONGRESSIONAL RECORD of December 14, was a decoy letter written by him.

Senators will remember that one of the conspirators who, it was alleged, helped to plan and helped to execute the shooting up of Brownsville was this man James Powell, an ex-soldier of this battalion, as charged, and they introduced a letter written by James Powell to Boyd Conyers, his comrade and friend, at Monroe, Ga. When Conyers was asked about that letter he said: "I do not know that man Powell. I got such a letter, but I do not know him at all. I never saw him. I never heard of him. There is no reason why he should write to me." Now, it comes out that that was a decoy letter, and not written by James Powell, but written by W. G. Baldwin, this representative of the Government. And then, later, Mr. President, it turns out by his own confession, by his own statement, that James Powell never belonged to this battalion. He had been a soldier in some other regiment some years ago, but he had been living in Atlanta since long before the shooting affray occurred, in the service there of a Doctor Crenshaw. The Senators from Georgia may know him. Then he said he had no knowledge whatever of Brownsville, and had never been there.

Oh, such plotting, such planning, simply to save somebody's face—I need not say whose. That is the plain English of it. That is what the power of this Government and the Public Treasury of the United States are being subjected to in this matter.

He—

Mr. Baldwin—

also told me that he knew very little about William Lawson, the negro detective, as he had only been with him a few weeks (having been sent to him by his brother), and that he had already caught him in several crooked statements. He also said that he had sent George Gray—

From whom I read a letter a few minutes ago—

a private in Company C, and who was in the army with Conyers, here to see Conyers after Lawson had left. That Gray came here and spent the day with Conyers, and on his return reported no information.

E. C. ARNOLD.

Signed and subscribed to before me December 31, 1908.

JNO. T. ROBERTSON,
Clerk Walton Superior Court.

Now I read the affidavit of W. J. Mayfield, also a witness:

STATE OF GEORGIA, *Walton County:*

In person appeared before me, W. J. Mayfield, who, on oath, after being duly sworn, deposes and says:

That in June, 1908, he was employed to superintend the work of grading and preparing the target range for Company H, Monroe National Guard, Second Georgia Regiment. I have read the statement of William Lawson in the CONGRESSIONAL RECORD in regard to a conversation he had with Boyd (Buddie) Conyers on the morning of June 8, near Main street, between 8 and 9 o'clock. I desire to say that statement *is absolutely false*, and could not possibly be true, for the reason that the target range is 3 miles from Monroe and Conyers was working for me on the target range that day. We began work about 6 o'clock, or sunup, in the morning, and worked until sundown in the afternoon, and it was impossible for Conyers to have had the conversation at the time and place mentioned by Lawson. *In addition to my memory* as to the above facts *my time book* kept by me bears me out as to the correctness of my memory. Lawson's statement as to that conversation *is a fabrication and falsehood* out of the whole cloth. Conyers was already at work on the range when I took charge of it, and continued to work there under me every day until it was completed.

W. J. MAYFIELD.

Sworn and subscribed to before me this December 30, 1908.

JNO. T. ROBERTSON,
Clerk Walton Superior Court.

Then, I have the testimony here of a man by the name of John Blassingame:

STATE OF GEORGIA, *County of Walton:*

In person appeared before me, John Blassingame, who, being duly sworn, deposes and says: I am at present and was on May 6, 1908, the proprietor of a pressing club in the city of Monroe, Ga.; that I was present when William Lawson, the colored detective, was introduced at my place to Boyd (Buddie) Conyers. It is not true, as stated by him as published in the CONGRESSIONAL RECORD on page 191, that he was introduced to Conyers as an "old soldier." He was introduced or introduced himself to Conyers as traveling with and a helper to a hat drummer. I further swear that I was present on the occasion when Lawson says that he offered Conyers liquor in my place of business, and that his statement to that effect is not true. I further swear *that I went on the negro excursion to Gainesville* on the morning *of June 15*, and that Boyd Conyers *did not go on that excursion.* The excursion train left Monroe about 7 o'clock in the morning and did not return until about 9 o'clock that night, and that Conyers was not on the train either on its departure or return.

JOHN BLASSINGAME.

Sworn and subscribed to before me December 31, 1908.

J. O. LAWRENCE,
Notary Public ex officio Justice of the Peace,
Walton County, Ga.

So that that story is a lie.

Then, O. J. Adams, who is also a white man and clerk in the post-office, testifies:

STATE OF GEORGIA, *County of Walton:*

Personally appeared before me, O. J. Adams, who being duly sworn, deposes and says:

On the morning of June 15, 1908, I began my duties as clerk of the postmaster in the post-office at Monroe, Ga., which position I still fill at the present time. I know Boyd (Buddie) Conyers personally. I know of my own personal knowledge that *he did not go on the negro excursion to Gainesville* on the morning of that date, because he worked in the post-office until 11 or 12 o'clock that morning, giving the office a general cleaning up, washing the windows, etc. The excursion went up early in the morning and he was working in the office as above stated several hours after it had left here. I know that *I can not possibly be mistaken* as to what I have above stated for the reason that *it was the day I* began work *as a clerk in the post-office.*

O. J. ADAMS.

Sworn and subscribed to before me, an officer of said State, duly authorized by law to administer oaths. January 4, 1909.

J. O. LAWRENCE,
Notary Public, Ex Officio Justice of the Peace,
Walton County, Ga.

Now here, in order that Senators may know what kind of methods are resorted to to get testimony, let me read the following affidavit from Frederick D. McGarity. He is the assistant cashier of the leading bank in Monroe, a white man.

STATE OF GEORGIA, *Walton County:*

In person appeared before me Fred D. McGarity, white, who, after being duly sworn, deposed and said that on the night of November 28, 1908, and immediately after supper, a gentleman who registered at the hotel where I boarded introduced himself to me as *A. H. Baldwin*, having previously learned that I was a notary public, and requested me to go with him to the house of one Lewis Anderson, colored, for the purpose of attesting an affidavit. I went with him, as it was only a few hundred yards, not knowing the nature of the business. When we reached the place we found there *Lewis Anderson and one William Lawson*, a negro detective, who then requested Anderson to repeat what he had told him that Boyd (Buddie) Conyers had told him about the Brownsville raid. Anderson, who is an old man, vehemently denied having told Lawson anything about Conyers; said that Conyers's name had never been mentioned between them but one time, and that was on one occasion when Conyers passed by and Lawson asked him if that was Conyers, and he told him yes. Anderson further stated that he had had no talk with Conyers; that he had only spoken to him one time, and then only to say "howdy;" that he had nothing to do with "these young niggers." Lawson insisted on Anderson making an affidavit that Conyers had admitted to him that he knew a great deal more about the shooting at Brownsville than he had told. Lawson insisted that Anderson had told him these things while out fishing. Anderson strongly denied having told Lawson any such thing, and got his Bible and placed his hands on it and denied that he had ever made any such statements to Lawson, or that he had ever had any conversation with Conyers about the matter in any way, at the same time calling upon, or stating that God would strike him dead if he was telling a lie. Anderson denied making such statement to Lawson and refused to make the desired affidavit. Mr. Baldwin and I then went to the home of Boyd Conyers. Mr. Baldwin asked Conyers if he knew Lawson. Conyers stated that he knew him when he saw him. Baldwin asked him if he went on the excursion to Gainesville. Conyers answered that he did not. Baldwin told him that Lawson said he went and made a confession to him on the trip in the presence of Lonzo Hennon, and that he, Baldwin, had Hennon's affidavit in his pocket showing this to be true. Conyers replied that he could not help what he had; that it was not true; that he did not go on the Gainesville excursion and had made no confession to Lawson or to anyone else. Baldwin then asked Conyers how many men were arrested after the shooting. Conyers told him 13. Baldwin asked him to give him the names of those arrested, and Conyers did so. He asked Conyers if he was arrested, and Conyers said no. He asked Conyers who sent for him when he went to Washington. Conyers told him D. M. Ransdell, Sergeant-at-Arms United States Senate. He then asked him how much he got per day and how much expense money, etc. Conyers told him, but I do not remember the exact amount.

I was present during all of the conversation and heard it all. Conyers positively denied knowing anything about the shooting, stating that he was asleep at the time the shooting took place. Conyers said nothing that would tend in any way to show that he had anything to do with the shooting, or that he knew anything about who did it. I am assistant to the cashier in the Bank of Monroe.

FRED D. MCGARRITY.

Sworn and subscribed to before me January 4, 1908.

J. O. LAWRENCE,
Notary Public and ex officio Justice of the Peace,
Walton County, Ga.

Then, here is the affidavit signed and sworn to by G. W. Giles, who was one of the parties in charge of the excursion to Gainesville:

STATE OF GEORGIA, *Walton County:*

In person appeared before me G. Wes Giles, who being duly sworn, deposes and says: That on Monday morning, June 8, several of us left Monroe and went out to grade the target range, about 3 miles out from town. Boyd Conyers was one of the party. We were working under Mr. W. J. Mayfield, and we went out in the wagon with him. We left town about 6 o'clock or sunup that morning and did not return to town until dark that evening. I know of my own knowledge that

William Lawson did not have any conversation with Conyers between 8 and 9 o'clock that morning in Monroe, as stated by Lawson, for the reason that I was at work with Conyers, 3 miles from Monroe from sunup in the morning until after sundown in the evening, and Conyers did not go to town during the day.

I further swear that *I was one of the parties in charge* of the *excursion to Gainesville* on June 15. I was in charge of the refreshment car. I tried to get Conyers to go on the excursion, but he told me *that he had a family to keep up* and would have to work. I know of my own knowledge that Conyers did not go on that excursion. The excursion train left Monroe about 7 o'clock in the morning and returned about 9 o'clock that night.

G. W. GILES.

Georgia, Walton County, sworn and subscribed to before me January 4, 1909.

J. O. LAWRENCE,
Notary Public, ex officio Justice of the Peace,
Walton County, Ga.

Now, here follows a statement made by the captain of the national guard company, who is the cashier of the bank; not sworn to. It reads as follows:

MONROE, GA., *December 24, 1908.*

To whom it may concern:

This is to certify that I have known Boyd Conyers for twelve to fifteen years, during the most of which time he has resided here. He has been in my employ a number of times, and during the past year he has been janitor for the Walton Guards, Company H, Second Infantry, National Guard of Georgia, of which I am captain. I secured him for this position on account of his experience in military service, which made him efficient in the matter of care of military property. I have always found "Buddie," as he is known in Monroe, to be honest, reliable, and trustworthy. I have talked with him a number of times about the Brownsville trouble, and he has always told me the same story, to wit, that he had no part in the shooting, and did not know anyone who did; that he was on guard duty; and that he was asleep at the time the difficulty occurred. *From my knowledge of him, I do not think he would have taken part in such an affair,* for he *has always borne the reputation of being a quiet, peaceful, and law-abiding citizen.* When the report became current in Monroe that he had confessed to a detective that he took part in the Brownsville shooting, he was very much exercised over it, and came to me and insisted that he had made no such confession, and I was impressed with his sincerity in the matter.

Respectfully, ALBERT B. MOBLEY.

Now, Mr. President, I hazard nothing in saying that this testimony will prove sufficient to firmly establish in the minds of all honest men—I have gotten so that I rather like to use that word myself—to firmly establish in the minds of all "honest" men, from one end of this land to the other, not only that the reports of these so-called "detectives," in so far as they attempt to show confessions and incriminating statements made by Conyers, are base fabrications, without any truth whatever on which to rest, but that the whole work in which they have been engaged is the result of a plot and a conspiracy blacker and more damnable than anything that has been charged against the soldiers themselves, even if the worst that has been said should prove to be the truth; for, atrocious and indefensible as is the crime of murder, more atrocious and more indefensible still is a cold, scheming, calculating plot and conspiracy to fasten the crime of murder upon an innocent man.

The VICE-PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by the Secretary.

The SECRETARY. A bill (S. 6484) to establish postal savings banks for depositing savings at interest with the security of the Government for repayment thereof, and for other purposes.

Mr. CARTER. I ask unanimous consent that the unfinished business be temporarily laid aside.

The VICE-PRESIDENT. The Senator from Montana asks unanimous consent that the unfinished business be temporarily laid aside. Without objection, it is so ordered. The Senator from Ohio will proceed.

Mr. FORAKER. If Senators could but see Boyd Conyers, as I recall him when he appeared upon the witness stand, a young man, a mere lad, who was serving his first enlistment, who had been a member of the battalion only one year, who is spoken of by Herbert J. Browne in his report as a recruit, and who was doubtless regarded by the older soldiers of the battalion as a mere recruit—for so would one appear to a soldier of twenty or twenty-five years' service who was serving in the first year of his first enlistment—if Senators could but see his frank, open, manly face and manner as he testified, manifestly anxious to tell the truth and the whole truth, and withholding nothing whatever, they would conclude with me that he was the last man to be thought of as capable of the plotting of a conspiracy in which he was to involve his older and more influential comrades—a conspiracy that involved the most serious violation of every duty as a soldier, not only for himself, but for everybody else connected with the plot—if Senators could only see what I see—as I now recall him, it would not require any word of argument or of testimony from anybody to show the utter wickedness of these charges against him.

According to the citizens of Monroe, Ga., who have known him all his life, he is a man with a blameless record, enjoying the confidence and respect of every white man, as well as every colored man in that community, and this, according to their testimony, was true of him not only before his enlistment, but is true of him since his return from the army. Is it possible that in one short year in the service under strict discipline he turned to be such a desperado as Mr. Browne and his fellow-conspirators would have us believe; and then instantly turned back again to his former self when he was turned out of the service? If he thus turned criminal, why did he do it?

There is not one word of testimony to show that either he or any member of Company B had the slightest trouble with any citizen of Brownsville. On the contrary, the testimony is uncontradicted and conclusive that no member of that battalion had any trouble with the citizens of Brownsville, except only three or four men of Company C; and it was on account of these troubles of men belonging to Company C, coupled with the fact that Company C had trouble about opening its gun racks, and on account of the delay so occasioned—they were violently broken open—that Major Blocksom intimates in his report that members of Company C probably planned the raid and executed it. That was the only company that had any provocation to do anything of the kind. But the testimony before the Senate committee showed that it was impossible for anybody connected with Company C to have participated in the raid, and all pretence of charging Company C with such responsibility has been long since abandoned.

I will not review the testimony here, but simply content myself with a reference to former speeches in the Senate in which I have called attention to the evidence on this point.

ELMER BROWN.

Now I come to another soldier, Elmer Brown.

Mr. Herbert J. Browne states in his report that Elmer Brown, of Company B, who slept in the corral, furnished him "a list of suspects"—eight names in all.

Elmer Brown unqualifiedly denies that he ever made any such statement to Mr. Browne or anybody else. He makes the following affidavit:

DISTRICT OF COLUMBIA, *City of Washington, ss:*

AFFIDAVIT OF ELMER BROWN.

Elmer Brown, being first duly sworn, says that he was a member of Company B, Twenty-fifth U. S. Infantry, and that he was discharged from that company without honor at El Reno in November, 1906; that he was in Brownsville at the time the shooting affray occurred, August 13–14, on account of which the soldiers were discharged; that he was at that time, and had been for two years prior thereto, on special detailed duty, taking care of the horses of Major Penrose, and acting as his mounted orderly on practice marches and on other occasions when the Major rode.

That on the night of the shooting he was sleeping in the private stable in which the horses of Major Penrose were kept, which stable was situated in what was known as the "corral," about six or seven hundred yards from the barracks in which the men were quartered.

Back in the rear part of the reservation.

Affiant further says that he was asleep when the firing occurred and did not know anything about it until he was awakened by Alfred Williams and told of it. Affiant further says that he has testified fully before the Senate committee and on other occasions that he has no knowledge whatever as to who did the shooting; neither does he know of any one belonging to either of the companies who has any knowledge or who has ever at any time withheld any knowledge with respect thereto; that his statements on these points as heretofore made are absolutely truthful.

Affiant further says since last August he has been employed as a laborer cleaning steam presses at the Bureau of Engraving and Printing; that while he was so employed there, some time during the month of July last, a gentleman called upon him, who said he wanted to talk with him about the Brownsville matter. Affiant asked whether he was an officer of the army, and the man replied that he was not an officer, but that he was connected with the army. He said he had been sent to affiant by Judge-Advocate-General Davis. Later affiant called upon Judge-Advocate-General Davis and asked him whether he had sent such a man to him, and the Judge-Advocate-General told him yes, he had sent a Mr. Browne to him. In this way affiant learned the name of the party who thus called upon him.

This party told affiant that he was trying to get information that would enable the President to restore the men to the army, and that he wanted affiant to tell him who did the shooting, and all he knew about it. Affiant told him he had no knowledge on the subject, and that his testimony as theretofore given was full and complete and truthful. Mr. Browne thereupon told him that if he would tell who did the shooting and all about it, he would take affiant's name to the President, and the President would reinstate him in the army.

Affiant further states that Browne talked over the matter at great length, saying among other things that the shooting was done by men belonging to B Company. He said they had found that out, and that George Jackson and Sergeant Reid, who was sergeant of the guard that night, knew all about it.

Later, about the first week in August, as nearly as affiant can recall, Mr. Browne visited him at the Bureau of Engraving and Printing a second time. At this time he had with him a group photograph of the baseball club belonging to Company B. He asked affiant the names of all these men shown in the group, and put the names down, as affiant gave them, on a piece of paper. He had with him, also, the roll of the company, and called off each man's name in turn and asked affiant about it. Affiant answered his questions as well as he could, but affiant told him if he wanted the records of the men he should go to the War Department; that they could be furnished there better than affiant could give them.

At no time and in no way did affiant admit to Browne, or has he ever admitted to anybody else, that he or anybody connected with the battalion had done the shooting, and he insisted in all his answers to Mr. Browne, as he has to everybody else, that he does not know who did the shooting. He was not present in the barracks that night nor with his company until the shooting was all over, and affiant has no knowledge whatever except what he has heretofore testified about.

Affiant denies unqualifiedly that he gave Browne or that he has ever given to anybody else any list of suspects, as stated by Browne in his report shown in the CONGRESSIONAL RECORD of December 14, 1908. What affiant refers to as appearing in that report is the following:

"Elmer Brown, Company B, who slept in the corral, furnished the following list of suspects:

"James Bailey, Carolina de Saussure, C. E. Cooper, John Holloman, James (Rastus) Johnson, Henry Jimerson, William Lemons, and J. L. Wilson."

Affiant denies that he ever named any such list, or ever named anyone mentioned in the list as suspected by him of having anything to do with the shooting, or as having knowledge of the shooting. The statement, in other words, made by the Browne report in that respect is a falsehood, without any truth whatever on which to base it so far as anything is concerned that affiant may have said.

Affiant says that since December 14, 1908, as nearly as affiant can now recall—probably about the 21st day of December—this same man called upon him for the addresses of all the men living here in the city that affiant might be able to give him.

He thereupon asked affiant about various things that he claimed had happened in connection with Company B and different members thereof, running back for several years prior to the time of the shooting. As to a number of these matters, affiant had never heard anything about them. He answered as best he could, giving him such information as he could as to the matters about which he did have knowledge or about which he had heard anything.

He thereupon told affiant that they now had positive proof that Sergeant Reid, John Holloman, Carolina de Saussure, and Henry Jimerson and George Jackson were all guilty of participating in the shooting or of having been parties to it, and that they had them all located and could lay their hands on them any time they wanted to. He did not mention in this conversation, or ever at any time in any of his conversations with affiant, the name of Boyd Conyers.

He then stated that in about a month or six weeks the President would be able to put half to two-thirds of the men back in the army, and that if affiant wanted to get back in the army he must tell all he knew.

Thereupon affiant appealed to him to arrange it so he (affiant) could himself go and see the President and prove his innocence.

Does that sound like the talk of a guilty man? This poor soldier appealing to this man who thus goes to him as the President's representative, that he may be allowed to go in person directly to the President and state in his own way his case, not doubting he could prove to the satisfaction of the President that he was innocent, for he felt that if he could talk to the President he could satisfy him that he was not guilty either of participating in the shooting or of keeping any knowledge of it from anybody. But affiant was told by Browne that it would be impossible for him to see the President, for if the President should act on his case alone—if he should see affiant and let him go back in the army—he would have to see every other man and let him go back; that Browne would see the President for affiant, and that affiant would have to tell him about it.

The President could not be reached except through his representative.

Affiant replied that he had no knowledge whatever on the subject that he could give Browne. Affiant asked Browne whether he wanted him to commit perjury. Browne said no, he did not want him to commit perjury, but he wanted him to tell about it; and affiant then told him that he had told all he knew about it, which was nothing. Thereupon Browne left and affiant has not since seen him.

ELMER BROWN.

DISTRICT OF COLUMBIA, *City of Washington, ss:*

Before me, Edgar L. Cornelius, a notary public in and for the city of Washington, District of Columbia, personally appeared the above-named affiant, Elmer Brown, and made oath to the statement contained in the foregoing affidavit.

[SEAL.] EDGAR L. CORNELIUS,
Notary Public.

JANUARY 7, 1909.

Elmer Brown also testified before the Senate committee. He was an older soldier. At the time of this affray he was serving his sixth enlistment. The official record of this soldier as furnished by the War Department is as follows:

Enlisted May 18, 1892; was honorably discharged as a private of Troop I, Tenth Cavalry, August 17, 1895, upon his own request, at the expiration of three years and three months' service, he having enlisted for five years; character excellent.

Reenlisted November 2, 1895; was discharged as a private of Company B, Twenty-fifth Infantry, November 1, 1898, on expiration of term of enlistment; character very good.

Reenlisted November 2, 1898; was discharged as a corporal of Company I, Twenty-fifth Infantry, November 1, 1901, on expiration of term of enlistment; character excellent.

Reenlisted November 7, 1901; was honorably discharged as a corporal of Company B, Twenty-fifth Infantry, November 26, 1902, in connection with the reduction of the army; character excellent.

Reenlisted February 25, 1903; was discharged as a private of Company B, Twenty-fifth Infantry, February 24, 1907, on expiration of term of enlistment; character excellent.

Reenlisted February 25, 1906; was discharged without honor as a private of Company B, Twenty-fifth Infantry, November 22, 1906.

It is impossible for him to reach the President, who ordered that disgrace to be put upon him, except only through this man Herbert J. Browne.

Upon this record alone every presumption is in favor of Elmer Brown as against Herbert J. Browne. But we are not without evidence as to who Elmer Brown was. The evidence shows that at the time of this shooting affray he was, and had been for two years, on detailed service, taking care of the horses of Major Penrose and acting as his orderly. Major Penrose testifies that he was a trusty, faithful man in whom he had entire confidence and upon whom he thoroughly relied. Not a breath of suspicion or charge has ever been made against him until now.

Every member of the Military Affairs Committee who can recall him as he appeared on the witness stand will know without citing his record and without any argument in his behalf that what Herbert J. Browne has said of him is an untruthful libel, without any excuse whatever. If the President would only grant the pathetic appeal of this veteran soldier of the Republic and give him a chance to be heard, he would be in better company and in better business than he is when listening to his scheming traducer, and if happily he should be moved to do him justice, the act would add honor to his distinguished career and gladden his heart for all time to come.

And so I might go on as to each and every other man who is attacked by Herbert J. Browne and his fellow-conspirators, with the same result as to each, but it is unnecessary.

Falsus in uno, falsus in omnibus.

Especially should that maxim apply where it is shown that the great vital proposition upon which the whole report rests, that Boyd Conyers made a confession, is a lie out of whole cloth, without anything whatever in all the realm of truth on which to base it and without any explanation, except only that the men who were put at this iniquitous and unholy work were anxious to make a report that would secure their retention in the employment that had been given them. It was vital to the continuance of their relations to the Treasury that they should appear to be making progress.

It is impossible to find language with which to fittingly characterize such a procedure as this detective business has been from its incipiency down to the monstrous stages it has reached.

It is atrocious, revolting, shocking to every sense of fairness, justice, and even common decency; and yet, bad as it is, it is no worse than what usually occurs when hired detectives are employed to "work up cases." The reports are full of such comments as the following, viz:

A man who will deliberately ingratiate himself into the confidence of another, for the purpose of betraying that confidence, and while with words of friendship upon his lips he is seeking by every means in his power to obtain an admission which can be tortured into a confession of guilt which he may blazon to the world as a means to accomplish the downfall of one for whom he professes great friendship, can not be possessed of a very high sense of honor or of moral obligation. Hence the law looks with suspicion on the testimony of such witnesses, and the jury should be specially instructed that in weighing their testimony greater care is to be exercised than in the case of witnesses wholly disinterested. (30 Northwestern, 628.)

While there may be nothing in the conduct of a hired private detective to warrant *superlative* denunciation, his testimony should undoubtedly be scrutinized with caution, as that of a biased witness. The acts of a detective may be "so void of decency, so utterly repugnant to all notions of how an honorable man should conduct himself," that a court will disregard his testimony entirely. (74 Fed., 235; 187 N. Y., 160.)

I think that fits the case.

A super-serviceable detective is very apt to discover in his eagerness to illustrate his fidelity to a self-imposed master what he seeks. (92 Federal, 774.)

When a man sets up as a hired discoverer of supposed delinquencies, when the amount of his pay depends upon the extent of his employment and the extent of his employment depends upon the discoveries he is able to make, then that man becomes a most dangerous instrument. (Sopwith *v.* Sopwith, 4 S. W., Tr., p. 243, quoted in 70 Ill., 818.)

A person who would engage himself for hire to spy out affairs of that kind and make proof of them is entitled to no credit whatever. (16 Pac. Rep., 282.)

Detectives are employed to get evidence, and they always get it; many times, however, without any facts whatever to sustain it, which is the reason of the suspicion necessarily attaching to this class of testimony. (34 N. Y. App. Div., 460.)

A person employed for money to discover evidence to establish any fact is eager to attain his object, and whether such be the arrangement in fact or not he is very likely to believe, especially in a case like this, where his employer has the deepest interest in his success, that his reward will to a very large extent depend upon the success of his efforts. (39 N. J. Eq., 148.)

I might quote a hundred others just as pertinent, but time forbids it.

EMPLOYMENT OF DETECTIVES.

But there is another feature that needs attention. It appears from the answer of the Secretary of War that contracts were entered into between Herbert J. Browne and William G. Baldwin, on the one part, and the Secretary of War, on the other part, representing the United States, whereby Browne and Baldwin were engaged to employ detectives to secure from the men

testimony that would lead to the identification of the participators in the shooting affray.

It appears from the "confidential" letter of Mr. Taft, then Secretary of War, to the President, dated April 16, 1908, that Mr. Browne was known to him as a "journalist of considerable experience," and that W. G. Baldwin "was the head of a large detective agency at Roanoke, Va., serving the three great railways that passed through that town."

He further says:

I have talked with Mr. Baldwin and with Mr. Browne, and they think that unless within thirty days the prospects of success are bright it would be useless to continue the investigation further. If, however, their clews are found as they expect to find them *through the use of the large force of detectives in the employ of Mr. Baldwin*, then thirty days further may be needed in order to render the proof satisfactory.

In other words, it clearly appears that it was known at the time when the contract of April 16, 1908, was entered into between Browne and Baldwin on the one hand and the Secretary of War on the other, that the Secretary of War, as the head of the War Department, acting on behalf of the Government, was employing a detective agency with the expectation that "a large force of detectives" in the employment of Mr. Baldwin, chief of the agency, would be put to work to pursue these men with a view to securing from them the much desired testimony.

We are further told in this report from the present Secretary of War that there were three of these contracts, each providing for an expenditure of $5,000, or an aggregate of $15,000, and that all the money so contracted to be paid has been paid in accordance with these contracts.

We are further informed that this money has been paid out of an appropriation of $3,000,000, made by the deficiency act of March 3, 1899, the language of which appropriation is as follows:

For emergency fund to meet unforeseen contingencies constantly arising, to be expended at the discretion of the President, $3,000,000.

This appropriation—Senators will kindly note with care—is found under the general subhead "War Department," and under the special subhead of "Military establishment—Contingencies of the army." It was for no other kind of contingencies but "contingencies of the army." I have looked it up, but I did not get it in time to embody it in this manuscript, and I found that the appropriation was made upon the request of the Secretary of War and for the use of the department. Therefore, having been so made, having been so put down in the statute under "War Department," "Military establishment—Contingencies of the army," it was clearly an appropriation made by Congress under its constitutional power to "support" the army, and not under or by virtue of any other power whatever.

It will probably be surprising information to the Appropriations Committee—and I call the attention of the honorable acting chairman of the committee [Mr. HALE] to that, as he sits near me—as it will be to most Senators, that this appropriation, made ten years ago at the close of the Spanish-American war, to enable the President to meet emergency army contingencies such as were then arising in connection with our military establishment, should have been construed to be a permanent appropriation, and that there is still a large unexpended balance out of which payments of the character now under consideration are being made.

Especially so, in view of the fact that the Constitution of the United States provides in the enumeration of the powers of Congress that it shall have power—

To raise and support armies, *but no appropriation of money to that use shall be for a longer term than two years.*

That is what the Constitution says. It seems, however, that the Constitution suffered in this instance, as it has in a great many others during the last three or four years.

Under this provision of the Constitution, as well as under the general statutory provision on the subject, the appropriation lapsed at the end of the fiscal year of 1901, and no exception of the statute in favor of "permanent" or "specific" appropriations could keep it in force beyond that date. At that time it became the duty of the Secretary of the Treasury to carry the unexpended balance to the general fund or apply to Congress for a reappropriation. It was doubtless in view of this fact that the War Department at that time estimated for the further appropriation of $1,000,000, as the report shows of the Secretary of War for the fiscal year ending June 30, 1902, which estimate was, however, disallowed.

Then what happened? It would be interesting to know—I mean it would be interesting to know how, why, and by whose authority the unexpended balance of this fund has been kept available, and for what variety of purposes and upon what kind of vouchers it has been illegally drawn upon during all these years. Were the men at the head of the War Department, was the President of the United States, were any of the officials charged with the disbursement of these funds ignorant of the constitutional provision I have read? Not one of them.

I thought I would get full detailed information with respect to this fund without resorting to a resolution, but failing in that, I this morning offered a resolution, which the Senate adopted, calling for a detailed itemized statement of all the appropriations made out of this fund. I have been told that during this year, without one whit more authority than there is for the payment of this $15,000, in the neighborhood of $70,000 have been paid out from this fund on "contingencies" of one kind and another.

I also call attention to the fact that it is provided by section 193 of the Revised Statutes, enacted first in 1842, and from that date until now in substantially its present form the law of the land:

SEC. 193. That the head of each department shall make an annual report to Congress, giving a detailed statement of the manner in which the contingent fund for his department, and the bureaus and offices thereunder, has been expended, giving the names of every person to whom any portion thereof has been paid; * * * and the amount of all former appropriations in each case on hand, either in the Treasury or in the hands of any disbursing officer or agent. And he shall require of the disbursing officers, acting under his direction and authority, the return of precise and analytical statements of receipts for all the moneys which may have been from time to time during the next preceding year expended by them, and shall communicate the results of such returns and the sums total, annually, to Congress.

Whether the $3,000,000 fund drawn upon in this case is under the control of the Chief Executive or the Secretary of War, it would seem to be the duty of somebody to make a report with respect to it such as that called for by this section; and this duty so to report is not relieved by section 3690 or any other statute which excepts from the operation of such statutes "appropriations known as permanent or indefinite appropriations." If I should be in error about this, I am rendering an important public service in calling attention to much-needed legislation, of which, I trust, the Committee on Appropriations will take notice.

This appropriation being for the War Department, the report should have been made by the Secretary of War, and he is not relieved of that duty by the fact that the money can be expended only with the approval of the President. The Secretary of War evidently has entertained this view, but so far as I can ascertain no detailed or itemized reports to Congress of expenditures from this fund have been made, but only general reports showing the aggregate sums expended for each year. There is nowhere any statement as to the status of the fund at the end of each year for which the report is made; no detailed statement of any kind.

These general reports or statements are found in the annual reports of the Secretary of War showing the expenditures of the War Department for each fiscal year from its "emergency fund," as, for instance, for the fiscal year ending June 30, 1900, we find under the subhead "Military establishment:"

Emergency fund	$1,040,000.00
Emergency fund, 1901	360,583.00
Emergency fund, 1902	42,362.00
Emergency fund, 1903	76,187.43

Since 1903 a different form of statement has been used, on account of which I am unable to state definitely even aggregate amounts. If I were a member of the Committee on Appropriations I think I could get it; but in no instance is any such itemized statement given, so far as I can discover, as the statute requires.

It would be instructive and may be interesting to have such statements for each of the years, and that is why I offered the resolution which the Senate has adopted. But I pass that for the present because another very interesting question arises, passed upon by the Judge-Advocate-General, we are told, in favor of the availability of this money, as to whether or not, within the true construction of this appropriation of 1899, the securing of testimony by the methods resorted to was to meet an emergency contingency of the army such as the statute contemplated.

What is the ground upon which it is held to be such a contingency? The Secretary of War tells us that Mr. Taft told the President in his confidential letter of date April 16, 1908, that if the bill for the reenlistment of these soldiers which had been introduced by Mr. WARREN (WARNER?) passes—

It will throw upon you (the President) the duty of a further examination into the evidence to determine whether certain of those now discharged ought now to be restored on the ground that they were not parties to the shooting, did not know the persons who did it, and were unable to give any clues to the perpetrators. It becomes your duty, therefore, and that of the department, to make every effort possible to identify the men who did the shooting and to establish the innocence of as many as are innocent among those discharged.

In other words, the "contingency" was the exceedingly remote one that a pending bill, providing that men should be required to prove their innocence of a crime before a judge who had already pronounced them guilty, should be favorably acted upon by the Congress of the United States. And all this in the presence of the fact that there was the most bitter and determined opposition to the measure and that there was another measure pending which provided that all might be reenlisted who cared to reenlist, but that the right to further prosecute before civil or military tribunals should be reserved as to all against whom any evidence might be secured in any manner at any time after such enactment.

But waiving all technical or doubtful objections, and assuming for the sake of the argument that the constitutional provision quoted does not apply, and that the ruling of the Treasury Department that the appropriation is permanent is correct, and that it continues to stand, and will stand, as an available appropriation for such purposes as those for which it was intended until entirely exhausted, the question remains whether such payments as are now under consideration are legitimate and proper to be made from it. It would seem that, granting all I have indicated, they are yet, nevertheless, clearly illegal and in flat violation of the following statutory provisions found at page 368, volume 27, United States Statutes at Large, namely:

That no employee of the Pinkerton Detective Agency or similar agency shall be employed in any government service, or by any officer of the District of Columbia.

This provision was enacted in 1892 and has been in full force and effect ever since. But, inasmuch as it was found in an appropriation bill, it was thought proper in 1893 to reenact it, amended so as to employ the word "hereafter," to the end that there might be no question whatever about its being the continuing law of the land until repealed.

This reenactment was in 1893, and is found at page 591, 27 U. S. Statutes at Large. It reads as follows:

That hereafter no employee of the Pinkerton Detective Agency, or similar agency, shall be employed in any government service or by any officer of the District of Columbia.

This statute is still in force and effect, unrepealed and unqualified. It was in full force and effect at the time when these contracts with Browne and Baldwin were made by the Secretary of War.

In view of these statutes, all these payments are clearly illegal, not only without warrant or authority of law, but in plain violation thereof.

Summarizing: If the testimony taken by Browne and Baldwin and their detectives and submitted to the Senate by the President as exhibits of his message of December 14, 1908, were all truthful, it would be incompetent as proof of guilt, for the reason that upon the facts shown it was not free and voluntary.

2. The testimony I have submitted in answer to these statements shows that they are wholly false in every essential particular, being nothing more than malicious fabrications of the most villainous character.

3. These contracts of employment and all payments under them are utterly invalid.

4. In view of the fact that Browne and Baldwin have apparently induced the President to continue them in service and to pay them money out of the Public Treasury, upon the theory that they were rendering legitimate service when they were not, each and every such payment to them constitutes a clear case of obtaining money under false pretenses, and I call the attention of the law officers of the Government to the fact, as well as to the perjury that has been committed, in order that they may institute appropriate prosecutions.

Finally, in consideration of the general character of this whole miserable business, I feel more keenly than ever that it is the duty of the Congress to put an end, at once and for all time, to the possibility of continuing such outrageous and illegal proceedings by so amending my bill and then passing it as to provide a tribunal before which these men can appear and be heard in their own defense, if there be any person, anywhere, to prefer any charge against any one of them, and where they can be fairly judged by men old enough in service and in years and high enough in rank to be independent of every improper influence.

Before the debate is closed I shall try to find opportunity to show again, as I have heretofore shown, that this bill does not, as the Senator from Massachusetts has contended, infringe upon any right of the President as the Commander in Chief of the Army, and to either answer or obviate by amendment or modification any other objection that may be urged against it.

Mr. LODGE. Mr. President, I do not rise to review any phase of the Brownsville affair. I expressed my views some weeks ago, based exclusively upon the evidence presented in the court-martial and before the Committee on Military Affairs.

The Senators were kind enough to listen to me with great patience, and I have no intention of abusing their indulgence again. I have nothing to retract in the opinions I then expressed. Certainly at present I see no reason to add anything to what I then said.

There is, however, a single point to which I wish to address myself—one raised by the Senator from Ohio [Mr. FORAKER] at the close of the speech to which the Senate has been listening, and that is in regard to the legality of the employment of the two men, Browne and Baldwin, without any reference to the character of their methods or the merits of their work.

The Senator from Ohio read a letter from the Secretary of War written on April 16, 1908. I need not read it again, but I will ask that it be printed at this point in my remarks.

The VICE-PRESIDENT. Without objection, permission is granted.

The letter referred to is as follows:

[Confidential.]

WAR DEPARTMENT,
Washington, April 16, 1908.

MY DEAR MR. PRESIDENT: The Brownsville investigation before the Senate, while it establishes beyond any reasonable doubt the correctness of the conclusion reached by you on the report of the inspectors and the other evidence, has done nothing to identify the particular members of the battalion who did the shooting or who were accessories before or after the fact. If the bill now pending, introduced by Mr. WARREN, passes, it will throw upon you the duty of a further examination into the evidence to determine whether certain of those now discharged ought not to be restored on the ground that they were not parties to the shooting, did not know the persons who did it, and were unable to give any clues to the perpetrators. It becomes your duty, therefore, and that of the department, to make every effort possible to identify the men who did the shooting and to establish the innocence of as many as are innocent among those discharged.

In pursuit of that purpose I have had a conference with Herbert J. Browne, who, under circumstances not necessary to repeat, made an investigation into the circumstances of the affray, and is a journalist of considerable experience; and with Mr. W. G. Baldwin, the head of a large detective agency at Roanoke, Va., serving the three great railways that pass through that town. I have written to the presidents of the three railways which Mr. Baldwin serves to know whether he is considered by them to be trustworthy, reliable, and skillful, and until I have an affirmative answer from them on this subject I shall not sign the contract. The contract has been prepared by the Judge-Advocate-General. I have talked with Mr. Baldwin and with Mr. Browne, and they think that unless within thirty days the prospects of success are bright, it would be useless to continue the investigation further. If, however, their clues are found, as they expect to find them, through the use of the large force of detectives in the employ of Mr. Baldwin, then thirty days further may be needed in order to render the proof satisfactory. There is, as you will see in the contract, the right to cancel the contract at the end of thirty days, and thus save half of the expense proposed should it turn out that the effort is wholly useless. You will find written upon the back of the contract a formal indorsement and authorization for you to sign in order that the money to satisfy the contract may be withdrawn and paid from the appropriation there mentioned.

Very sincerely, yours, WM. H. TAFT.

The PRESIDENT.

Mr. LODGE. The Secretary of War at that time who wrote that letter was, as is well known, Mr. Taft. The President, of course, is absolutely responsible for what is done by any of his Cabinet officers, but the action taken was advised by the Secretary of War. Mr. Taft is a lawyer eminent at the bar, and he has been a judge distinguished on the bench. I do not believe that he himself would violate or advise anyone else to violate the laws of the United States, and it occurred to me that there must be some reason for the advice which he then gave to the President.

No one has a higher respect than I have for the great lawyers of the Senate, but I hope that I shall not be thought disloyal to the body to which I have the honor to belong if I suggest that there are good lawyers outside of the Senate.

The clause in the appropriation bill under which these expenditures were made was passed in 1899. Therefore, expenditures have been made from it under President McKinley and under President Roosevelt, under Mr. Root as Secretary of War, under Mr. Taft as Secretary of War, and under General Wright as Secretary of War. I feel that I am speaking within bounds when I say that Mr. Root deserves to be considered a great lawyer, and I believe the Senate may possibly in the future have more immediate demonstration of that fact. Mr. Taft's standing at the bar and his reputation on the bench are well known, and General Wright, if I am not misinformed, is a lawyer of the highest standing in the State from which he comes.

Now, Mr. President, to suppose, without any investigation, that eminent public men of this character and standing in the legal profession, supported by the advice of the Judge-Advocate-General of the department, have been engaged for a series of years, since 1899, in fact, in illegally expending the money of the Government is a rather startling proposition. For myself,

I was somewhat surprised to see the suggestion advanced that there has been any illegality in drawing money from the fund.

I can not see what relation the appropriation has to the constitutional provision limiting the raising and supporting of armies to two years, which, as is well known, is based on the famous "mutiny act" of England. This was a fund set aside and given to the War Department to meet unforeseen contingencies. It was interpreted by the War Department as a continuing fund, so interpreted by all the Secretaries I have mentioned, and no voice has ever before been raised in protest against this construction of the statute. If it is illegal now to draw money from that fund, it was illegal in 1901 and has been illegal every year since. The clause which has already been read to the Senate is as follows:

For emergency fund to meet unforeseen contingencies, constantly arising—

Not annually arising, but constantly arising—

to be expended at the discretion of the President, $3,000,000.

I do not think a plainer clause was ever put into an appropriation bill. I do not believe more absolute discretion was ever conferred upon the President in the expenditure of any fund. It leaves him the sole judge of the contingency.

Now, from that fund this money has been taken. I do not care to dwell further upon that point. My belief is that, whether the system of appropriating in that way is right or wrong, there is no question that that fund was put at the absolute disposition of the President and the War Department—not for this purpose or that, but for unforeseen contingencies constantly arising. This Brownsville affair was a contingency arising in connection with the discipline of the army. It related solely to soldiers, and nothing else.

I shall pass from that to the other point, about the employment of detectives.

Mr. CULBERSON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Texas?

Mr. CULBERSON. It is merely for a question.

Mr. LODGE. Certainly.

Mr. CULBERSON. I wish to ask the Senator if there is anything in the opinion of the Judge-Advocate-General showing that his attention was especially called to this prohibitory statute alluded to by the Senator from Ohio.

Mr. LODGE. There is nothing in it, as quoted in the message. I have not his full opinion—that is, I have not seen his full opinion. I have seen only what is in the message, in which he seemed, as I gathered, to rest his advice solely on the ground that the employment of detectives was a contingency within the meaning of the statute.

Now, coming to the detectives employed, Browne's was clearly not an illegal employment, for he was not a detective by profession, and he belonged to no agency. The clause under which the objection to the employment is made is that—

No employee of the Pinkerton Detective Agency, or similar agency, shall be employed in any government service, or by any officer of the District of Columbia.

Therefore the question comes down to the employment of Baldwin. He is the head of a large detective agency. He apparently does the work of three railroads. Railroads are soulless corporations. They are not yet sufficiently advanced to understand that it is iniquitous to have a detective force to look up criminals. They are so hard and uncivilized that they employ detectives, although it may hurt the feelings of the people whom they suspect of crime. He is what I suppose is prettily called in the newspapers a "sleuth." "Sleuth" does not mean a detective, I will say in passing. It means a track or trail, and not the person who tracks or trails. I could not avoid that digression, because the use of the word "sleuth," which means a track or trail to indicate a man or an animal who tracks or trails, is an abuse of language. That is merely a personal confession, and I pass on.

He is a detective and the head of a body of detectives used by the railroads, and apparently he stands well with his employers.

Mr. President, it is with respect to the employment of Captain Baldwin, against which the clause cited by the Senator from Ohio, and which I have read, seems to militate, that I desire to say a few words. The statute is so simple in its language and yet so vague that I wanted, if I could, to discover the intention of Congress in passing it. I believe I am not mistaken in saying that courts often inquire into the intention of Congress when they are interpreting a statute, and it seems to me that it at least was worth looking into to see whether the Judge-Advocate-General of the Army and the Secretary of War had not some ground somewhere for advising action which, at the first glance, appears to be in violation of the statute.

In the first place, let me say that the employment of expert detective services in connection with the apprehension and detection of counterfeiting has been recognized by Congress for a number of years past, in a clause of appropriation, which is executed by the Secretary of the Treasury. It is sufficient to say as to this that the War Department—I have made inquiry on this point—has never, save in time of war, made any use of the force so authorized and maintained, nor has it at any time derived any benefit from the services of its personnel. Apart from the legislation respecting this Treasury secret-service force, the matter was first made the subject of statutory regulation or prohibition in the sundry civil act of 1892, which I will presently cite.

To obtain a correct idea of the scope and operation of the act of 1892, it is necessary to recall the circumstances and incidents which suggested its adoption by Congress. The Homestead strikes were in progress during the summer of that year. There were numerous disturbances and there was forcible opposition to the operation of the laws in Homestead and other places in the vicinity of Pittsburg. Certain employers of labor in Homestead and elsewhere entered into an undertaking with the Pinkerton Detective Agency for procuring the services of very considerable numbers of armed men, who were to be employed in the protection of their establishments from injury, and to secure an immunity from forcible molestation in behalf of their employees.

These Pinkerton forces were not to be used in the performance of detective work, but, as we all remember, as private armed forces, which were recruited and organized in another State and brought into the State of Pennsylvania, where they were armed and employed, not as a part of the sheriff's posse comitatus, or under the direction of the sheriff or other peace officer of the Commonwealth of Pennsylvania, but as a private armed force for the protection of private property which was alleged to be in danger of spoliation and destruction. This is indicated by the language used in the resolution of Representative Williams of Massachusetts, in a resolution introduced by him on July 6, 1892, as follows:

Whereas the Pinkerton detective or private police force to the number of several hundred is now engaged in an armed conflict at Homestead, Pa., with the late employees of the Carnegie Iron Works at said place, and great loss of human life and destruction of property are likely to result from the same; and

Whereas the Judiciary Committee has been directed by a resolution of the House to investigate the nature and character of the employment of Pinkerton detectives by corporations engaged in interstate commerce: Therefore be it

Resolved, That said committee shall investigate and report on the character of the employment of said forces in the present instance, and the causes and conditions of the sanguinary conflict now going on at Homestead, Pa. (H. Repts., 52d Cong., 2d sess., 1892–3, vol. 3, Rept. 2447.)

The Judiciary Committee of the House was charged with the investigation and rendered its report on February 7, 1893, the concluding words of the report being:

Your committee believe that the practice of employing Pinkerton watchmen or guards by corporations in case of strikes and labor troubles has grown very largely out of the sloth and dilatoriness of the civil authorities to render efficient and prompt protection to persons and property in such cases, but to allow, without the consent of the State and in the first instance, corporations to employ such agencies as the Pinkerton watchmen—in large numbers drawn from other States—is well calculated to produce irritation among the strikers, frequently resulting in hostile demonstrations and bloodshed. Such action upon the part of a corporation or association should never be allowed without the consent first obtained of the State in which the trouble occurs. A contrary course tends to bring the local civil authority into contempt, whereas its employment, its officers appreciating their duty, is the surest guaranty for the protection of life and property and the maintenance of the public peace. Exasperated strikers will not molest or resist the officers of the State when, under exactly similar circumstances, they will assault the watchmen or guards hired by the corporation.

* * * * * * *

Every State may make and enforce whatever police regulation it pleases pertaining to the health, morals, and happiness of its people not inconsistent with the Constitution of the United States. No case of concurrent jurisdiction between Congress and the state legislatures is here presented, if indeed such a thing exists in any case.

Your committee, finding Congress without constitutional authority to legislate as hereinbefore set forth, respectfully suggest that it rests with the States to pass such laws as may be necessary to regulate or prohibit the employment of Pinkerton watchmen or guards within their respective jurisdictions. (Ibid., pp. 15, 16.)

Minority reports were submitted and appear as appendices to the general report of the committee.

A similar inquiry was ordered by the Senate, and a report was presented by Senator GALLINGER on February 10, 1893, in which the following was stated as the subject of its inquiry:

In the investigation your committee was confined to three inquiries, to wit: First, the reasons for the creation of organized bodies of armed men for private purposes, their character and uses; where, when, how, and by whom such men have been employed and paid for any services they may have rendered; and under what authority of law, if any, they have been so employed and paid. Second, to consider and report, by bill or otherwise, what legislation, if any, is necessary to prevent

further unlawful use or employment of such armed bodies of men for private purposes. Third, to make report as to the more effective organization and employment of the posse comitatus in the District of Columbia and the Territories of the United States for the maintenance and execution of the laws. (S. Repts., 52d Cong., 2d sess., 1892–3, Vol. I, Rept. 1280.)

In concluding its report, the committee says:

Your committee is of opinion that the employment of the private armed guards at Homestead was unnecessary. There is no evidence to show that the slightest damage was done, or attempted to be done, to property on the part of the strikers. True, there was apparently an unlawful assemblage, which refused to obey the authority of a weak and irresolute sheriff and committed acts that can not be defended; but their submission to the governing authority of the State showed that the power resided in the State to execute the laws after the sheriff had failed to invoke the power of his authority, and that order would have been retored without the interference of armed men from another State, brought there clandestinely. Indeed, the bringing of those men greatly excited the populace, called to the scene thousands of men from other localities, and doubtless led to many of the excesses which followed. At the same time there seems to be no excuse for the scenes of disorder and terrorism for which the strikers were themselves responsible. Laboring men should everywhere learn the lesson that they can not better their condition by violating law or resisting lawful authority. They are strong so long as they have the active sympathy of the people on their side; they are weak when they commit acts which shock the sense of justice or violate the principles of right.

The testimony of Robert A. Pinkerton shows that the Carnegie Steel Works opened negotiations with his agency for armed men as early as June 15, or nineteen days before the strike actually occurred.

It is a significant fact that while Mr. Frick had arranged for a conference with the men on the 24th of June, he was at the same time in communication, by long-distance telephone from his office at Pittsburg to their office in New York, with the Pinkerton Detective Agency to supply him armed men, if needed. The query naturally arises, Would not the chances for an amicable adjustment of the differences between the Carnegie Steel Company and the workmen have been improved had the negotiations been freed from preparations to import armed men from Chicago and New York to accomplish the purposes of the great manufacturing concern represented by Mr. Frick? It so seems to your committee, who are further impressed with the belief that if the same effort and money had been expended to secure protection at the hands of the legitimate forces of the municipality, the county and the State, a more speedy adjustment would have been secured and the shedding of blood might have been averted.

* * * * * * *

Whether assumedly legal or not, the employment of armed bodies of men for private purposes, either by employers or employees, is to be deprecated and should not be resorted to. Such use of private armed men is an assumption of the state's authority by private citizens. If the State is incapable of protecting its citizens in their rights of person and property, then anarchy is the result, and the original law of force should neither be approved, encouraged, nor tolerated until all known legal processes have failed.

As to the matter of legislation. The States have undoubted authority to legislate against the employment of armed bodies of men for private purposes, as many of them are doing. As to the power of Congress to legislate, that is not so clear, though it would seem that Congress ought not to be powerless to prevent the movement of bodies of private citizens from one State to another State for the purpose of taking part, with arms in their hands, in the settlement of disputes between employers and their workmen. The probabilities are that all of the States will soon enact statutes on the subject, in which event action by Congress, even if constitutional, will be unnecessary. (Ibid, pp. 13–15.)

Now, Mr. President, I have read enough to show that there was nothing under consideration by Congress at that time except the employment of Pinkerton detectives as a private armed force and armed guard. There was no movement at that time in existence directed against the employment of detectives as a means of discovering crime and bringing criminals to punishment.

The clause of the appropriation bill of 1892 as first recommended for adoption appeared in the following form:

It shall not be lawful for any officer of the Government authorized to make contracts, nor for any officer in the District of Columbia, to contract with any person, firm, or corporation who employ Pinkerton detectives or any other association of men as armed guards—

That was the first form of the resolution.

This, I think, is important as showing further that it was the use of Pinkerton men as a private armed force, and not the legitimate employment of detectives, which was aimed at in the resolution. This is made clear by the remarks of Mr. O'Neill, whom many of us well remember as a Representative from Philadelphia for so many years. In presenting the report of the conference committee to the House of Representatives he said:

But does not the gentleman from Indiana [Mr. Holman] well know *that nobody objects to the legitimate use of a Pinkerton detective as such?* (He was an old-fashioned man and thought the use of detectives in the discovery and punishment of crime "legitimate.") It is their use as armed guards that is objected to, and it is the sending of these armed guards from one State into another that is objected to; and it is the sending of these armed guards from one State into another that has brought up a protest from every section of this land, and has even resulted in the enactment of a law by the State from which the gentleman comes prohibiting that class of men from coming into that State. It is the armed-guard principle that we protest against. (CONGRESSIONAL RECORD, 52d Cong., 1st sess., p. 7120.)

As the final result the first part of the original resolution was dropped, and with a view to prevent and prohibit the use of private armed forces by the several departments of the Government the following clause of legislation was inserted in the sundry civil bill of 1892:

That no employee of the Pinkerton Detective Agency, or similar agency, shall be employed in any government service or by any officer of the District of Columbia. (Act of August 5, 1892, 27 Stat. L., 368.)

Now, the object of that clause was simply to prevent the use of detective agencies for armed guards, to be transported as a private army from one State to another, and Mr. O'Neill's speech, which I have quoted, shows that that was the uniform opinion of Congress. He expressly disclaimed that it had any intent to interfere with the employment of men on what in those less well-informed days was called the "legitimate use of Pinkerton detectives."

A clause of legislation identical in terms with that above cited was inserted in the sundry civil act for the following year. (Act of March 3, 1893, 27 Stat. L., 591.)

If the enactment first cited be carefully read it will be seen that it does not expressly prohibit the use of detectives in government business where appropriations for such a purpose are available. Except where the word is used in connection with the title "Pinkerton Detective Agency," the term "detective" is not used in the statute, and there, of course, it is merely descriptive. It would seem clear from what has been said that it was the employment of private armed forces which was aimed at in the statute hereinbefore cited and not the use of expert investigators with a view to ascertain and verify questions of fact. This plain intention of Congress can not be disregarded, and it has not been shown by anyone that Captain Baldwin and his assistants come within the definition of the persons whose employment was forbidden by the statute of 1902 or were at all within the intention of Congress in its act of prohibition. In the employment of Messrs. Browne and Baldwin—and we may leave Browne out; there is no question that he is not within the statute—no "detective agency" similar to the Pinkerton Detective Agency was resorted to. An agreement was entered into with two persons, each acting in an individual capacity, the principal one a newspaper man of standing and reputation, as I have always understood. In the operation of this undertaking the personal services of Messrs. Browne and Baldwin were obtained for the conduct of a confidential investigation. The terms "detective" or "detective agency" are neither of them used in either of the contracts so entered into. The services secured were those of persons who were known to possess the requisite skill and experience to warrant the department in committing to their hands the conduct of the inquiry.

Of course it appears in Mr. Taft's letter that he knew Mr. Baldwin was the head of a great agency and that he would use men in his employment. There was no attempt to conceal that fact. The work does not appear in the contracts, but of course that does not affect the character of Mr. Baldwin or what his business was, and the legality of his employment rests on much broader and firmer grounds.

When the question was presented to the department the following conditions existed: As a result of the investigation which had been in progress in the Military Committee of the Senate, of which I have the honor to be a member, during a considerable part of the time which had intervened since the occurrences at Brownsville on August 13–14, 1906, two resolutions were introduced in the Senate. In each of these the President is charged with an important exercise of judgment and discretion. If either of those resolutions had passed, he would have been obliged to exercise his discretion, and it seemed not improbable at that time that one might pass, and he would then have been obliged to restore every man whom he believed innocent. He could not be absolutely satisfied of the innocence of any man unless he could show who the guilty were. The resolutions were introduced with a view to obtain the legislative action of Congress upon the subject to which they related, and a date in the following December was fixed for their consideration. To enable the President to give intelligent and satisfactory execution to either resolution, or to any resolution in pari materia that might be adopted by Congress, it would be necessary for him to obtain information in respect to the participation of the discharged enlisted men of the Twenty-fifth Infantry in the occurrences of August 13–14, 1906.

The ordinary executive instrumentalities, the ordinary military authorities, had not succeeded in identifying the men who, as they believed, had done the shooting. They had not pointed out the particular enlisted men who had taken part, as they believed and as I believe, in the several acts there committed. Considerable time would necessarily be consumed in any kind of investigation to which the President might resort with a view to obtain the information above described. These condi-

tions of fact seemed to bring the case within the operation of the act of March 3, 1899, which provided:

For emergency fund to meet unforeseen contingencies constantly arising, to be expended at the discretion of the President, $3,000,000.

I have already discussed that paragraph which provides for the emergency fund and which the Judge-Advocate-General advised the Secretary of War was available for this particular business. Having determined that the emergency existed, the Secretary of War decided that it was proper to employ these persons as detectives, and so advised the President.

Something has been said, I think, about the clause of the appropriation act for the current year, which we passed last year, and to that I want to call attention briefly. It provides:

No part of any money appropriated by this act shall be used in payment of compensation or expenses of any person detailed or transferred from the Secret Service Division of the Treasury Department or who may at any time during the fiscal year 1909 have been employed by or under said Secret Service Division. (Act of May 27, 1908, 35 Stat. L., 328.)

That legislation has no relation, of course, to the detectives employed by the War Department. It applies to the Secret Service, and those officers were not employed in this investigation at all.

Mr. President, I am not going to detain the Senate. The hour is late. I merely wished to reply to the assertion of the Senator from Ohio that the Secretary of War, and of course the President, who was responsible, had been guilty of illegal action—first, in taking the funds from the appropriation, which I venture to think can not be sustained; and, second, in the employment of Baldwin, in view of the clause contained in the act of 1892. That clause, as I have demonstrated, had no relation to the employment of detectives. It was intended solely to apply to armed guards. The idea of excluding detectives was expressly disclaimed by the gentleman in charge of the bill. The whole debate, every resolution, the report of our committee, the report of the committee of the House, all pointed to its being used in that particular way, for the exclusion of private armed guards, not to prevent inquiry by detectives.

Mr. President, it seems to me to be going pretty far to press the technicality of that statute because Mr. Baldwin happens to be the head of a detective agency and urge that he was excluded under the vague clause put into the appropriation bill of 1892, simply in order to strike at the employment of armed guards, and then to contend further that it should be twisted to mean that it was intended by that act to prevent the employment of any detectives by the Government, when it has never been shown that Baldwin was within the prohibited class. If that is a true interpretation and we proceed to cut off all the people who are called "sleuths," in order to excite odium, and all secret-service men, without any regard to what their duties really are, we shall soon find the Government unable to expose any crimes which the various departments are obliged to prosecute.

The Senator from Ohio [Mr. FORAKER], for example, alluded to a decoy letter as if it were the last expression of human depravity. I am not concerned to defend detectives or their methods, either private detectives or public detectives. But it is a necessity of a detective force that they should use certain arts and certain deceptions if they would reach the crimes which they are created to suppress. There is not a week goes by hardly, certainly not a month, that there are not decoy letters sent out by post-office inspectors in order to catch men who are robbing the mails. It is the commonest thing in the world, and are we to be told that we must not protect the mails because the inspectors use decoy letters in their endeavor to catch criminals who are taking money from the mails?

Mr. President, the methods of detection of crime may be very unpleasant. They may be those which no man in his personal capacity would like to pursue and that no honorable man would pursue in the general conduct of business. But if the methods employed in the detection of crime are unpleasant, crime is a great deal more unpleasant than the methods used for its detection, and I for one, Mr. President, think we ought to pause before we assent to the proposition that the President, advised by as eminent a lawyer as was the Secretary of War in 1908 to take this action, was engaged in an illegal act. I can not pretend at this late hour and with no opportunity for anything like proper preparation to do more than to ask that the Senate will consider this question very carefully before it assents to the proposition that men such as I have mentioned—the series of Secretaries of War, the two Presidents—have been engaged in spending a fund in violation of the Constitution and the law, and that the predecessor of the present Secretary of War advised an illegal employment. I think there is sufficient in the history of the law under which it is hoped to maintain that proposition at least to give us pause and cause us to consider the case very carefully.

Mr. FORAKER. Mr. President, it requires so little time to answer the Senator from Massachusetts that I prefer to answer him now. The complete answer is in the fact, known and appreciated by every Senator, that if the Congress of the United States had intended to prohibit the employment of only armed detectives the word "armed" would have been inserted in the statute. It was not so inserted, although in the debate, as the Senator has pointed out, it was discussed, and that point was considered.

Now, having answered the Senator sufficiently, as I think, I want to inquire whether any other Senator desires to speak on the bill, and if not——

Mr. LODGE. Before the Senator proceeds, I want to say that, although he has said he has answered me sufficiently, his answer seems to me to be as insufficient as it is brief.

Mr. FORAKER. I think not.

Mr. LODGE. We have all a right to our own opinion.

Mr. FORAKER. I have no doubt that the Senator has a right to his own opinion and that his opinion is exactly what he states. Mr. President, I am also entitled to my opinion, and I was but expressing my own opinion, and I adhere to it, notwithstanding what the Senator has said.

Now, if no other Senator wants to address the Senate on this measure—and that reminds me to inquire whether or not I asked that Senate bill 5729 should be laid before the Senate before I began to speak. If not, I wish to have that order made now.

The VICE-PRESIDENT. The Senator did not make the request. Without objection, the bill will be regarded as having been laid before the Senate.

Mr. LODGE. Does that request displace the unfinished business?

Mr. FORAKER. It does not.

The VICE-PRESIDENT. It does not displace the unfinished business.

Mr. FORAKER. The unfinished business has been temporarily laid aside, and I am not interfering with it by proceeding to the further consideration of the bill at this time. Does any Senator want to speak on it? If not, I should like to ask Senators when we can take a vote on the bill and all amendments to it that have been proposed or may be offered.

Mr. WARREN. Mr. President, I am unable to answer as perhaps the Senator from Ohio would like to have me answer, as two of the members of the Committee on Military Affairs are absent on official duty as Visitors to West Point. I am unable to say when they will complete that duty or when they will be ready to deliver the speeches of which notice has been given of an intention to do.

Mr. FORAKER. To what Senators does the Senator allude?

Mr. WARREN. The Senator from Ohio, I think, perhaps, recalls them.

Mr. FORAKER. I recall the Senator from Tennessee [Mr. FRAZIER].

Mr. WARREN. The Senator from Tennessee [Mr. FRAZIER] stated that he was unable on the day he was addressed concerning it to make a speech, but he would make it at a later time.

Mr. FORAKER. Is there any other Senator who has given notice?

Mr. WARREN. I do not think that other Senators have given notice. I have understood that one or two others would desire to make some remarks. The intention was to give the Senator from Tennessee the floor whenever he should seek it, and when his address was made the others would determine whether they would continue the debate or not.

Mr. McLAURIN. Mr. President——

The VICE-PRESIDENT. Does the Senator from Ohio yield to the Senator from Mississippi?

Mr. FORAKER. Certainly.

Mr. McLAURIN. Lest I may be considered as being precluded by not saying anything at this time, I will say to the Senator from Ohio that, while I may not make a speech upon the bill, it was my intention to submit to the Senate some observations in respect to it before it was voted on. I do not know that I shall do so, but I do not want to be understood as having been cut off by my silence.

Mr. FORAKER. I know only the Senator from Mississippi, who has just now given notice that he may desire to speak, and the Senator from Tennessee [Mr. FRAZIER], who is absent, who have expressed any desire to discuss these measures. I spoke to the Senator from Tennessee last week here one day before he left—I do not remember just when it was—and he thought he would be able to speak at almost any time after he returned.

Now, that being the case, I do not see why we may not fix a day when we can have a vote. If we could fix a day, then we could all conform to it. I do not want to have to stay here hour after hour, every minute of time.

Mr. CLAPP. Mr. President, it has been my intention to speak on this bill, but I am rather disinclined now to do so and rather of the opinion that I will not. There is one thing, however, I want at this time to say in regard to it.

The policy of the department in using this money has grown up, but whether it is technically within or technically without the law I do not deem it necessary to discuss at this time. It has certainly grown up and has been a custom. To my mind the proposition of sending this case to a tribunal, as proposed by the Senator from Ohio, has no direct connection with the question whether the appropriation has been improperly used or not.

I simply want to make this statement, disassociating the two, and expecting to vote for the measure that is the best and most practical method of disposing of the question; at least, so far as I am concerned, it is not to be considered in any manner as a support of what has been said upon the other proposition.

Mr. FORAKER. I wish to say, in answer to the suggestion of the Senator from Minnesota, that I have offered this proposed amendment only because I learned that this further investigation was being conducted, and I thought it was all right to have the matter probed further if anybody thought that there was any possibility of finding out who did do that shooting. But I thought if there was any further probing it ought to be done in a way that would allow these men to know what was being done, and give them an opportunity to appear somewhere to present their defense against these charges. It seems to me utterly infamous that men should be hounded as it seems these men are—poor, ignorant, helpless men—all kinds of stories being fabricated, and there ought to be a tribunal somewhere before which they may appear.

In the bill as I drew it I think there is a provision which is better than what I now propose, and I offered my amendment with great reluctance only to meet this new feature of the case. The provision in the bill as originally drafted was that if at any time after these men are reinstated anybody should be able to produce any testimony tending to implicate anybody, the right should be reserved to try them before a court-martial or before a civil tribunal, as the case might seem to require. These men would be under the eye of their officers and they could be ordered before a court-martial at any moment, or they could be turned over to the civil authorities at any moment, and the trial would be conducted fairly, according to the rules and regulations of the army, or according to the laws of the land, if civil. It seems to me that is a better way, and I would rather have the bill passed in that form. But I prepared the amendment simply out of consideration for a new situation that had not arisen when I drafted the bill.

Mr. FULTON. Mr. President, I simply wish to suggest to the Senator from Ohio that if he does reach an agreement by which some time certain shall be fixed for voting on this measure it would be well to adopt a practice which, I think, has quite generally obtained here in the Senate of providing for a few minutes to any Member who may wish to explain his position. I do not intend or contemplate making a speech, but there are a few propositions on which I wish to place in the RECORD my view. I was a member of the committee during the time the testimony was being taken, and while I reached a conclusion quite satisfactory to my own mind that some of these men must have done the shooting, I reached also the conclusion that only a comparatively few of them were engaged in it or knew of it, and that the very great majority of them were entirely innocent of any participation in it or knowledge of it. Therefore I have felt all the time that the men who are innocent, or who I believe to be innocent, ought not to be subjected to punishment, and there ought to be some tribunal where there would be an opportunity to have the matter fully investigated.

I have not gone over the bill of the Senator from Ohio carefully, but it is a better plan, I understand, and more nearly conforms to my idea of what should be done than the provisions of the bill favored by a majority of the committee. On that point I wish to submit a few observations, and on the further proposition, as contended for by the Senator from Massachusetts [Mr. LODGE] in his very able speech the other day, that it is incongruous to provide for the reenlistment of these men without infringing on the prerogative of the President. I can not consent to that proposition, and I wish at some time for a few minutes the indulgence of the Senate to give my views upon it.

Mr. FORAKER. Mr. President, I expect to undertake to make an answer to the Senator from Massachusetts on that proposition. I did not undertake to do so to-day, because the speech I did make occupied as much time as I thought I ought to take of the Senate in one day. But there is that proposition which I have heretofore discussed to my satisfaction and about which I have no question whatever in my mind, and there are a number of other propositons that I want to address the Senate on before the debate is concluded. I am waiting, however, until Senators are heard on the other side.

I suppose in the advocacy of my bill I would naturally be entitled to close the debate. At any rate, before we get through with the debate I want to point out upon authority why it is that, in my judgment, the President has not anything more to do with the enlistment of men than the Senator himself has—not as much, because the Senator is a member of Congress, and as such does have some say about who shall be enlisted. The President is Commander in Chief of the Army, and as such can send it here, there, yonder, and everywhere, as he may see fit, but he has no more right to say than the man in the moon how the army shall be raised, who shall be enlisted in the army, or how it shall be mustered out, except only as Congress provides. That I shall address myself to at the proper time.

But the session is rapidly drawing to a close; my voice will soon be heard in this Chamber no more forever in all probability, and I want to ask my brother Senators to let me have a vote on the bill. I shall go away happier if you do.

I think under all the circumstances, in view of the way the bill has heretofore been dealt with, and the agreement generally under which it went over until this session, Senators ought to agree with me upon some date. Put it at the end of next week, if you will. I appeal to the Senator from Wyoming, the chairman of the Committee on Military Affairs. I have tried to accommodate everybody heretofore, and I want somebody to try to accommodate me now.

Mr. WARREN. I know the Senator from Ohio will admit that we have all undertaken to accommodate him also.

Mr. FORAKER. Well, I have not entered any complaint.

Mr. WARREN. I think I will be unable to-day to propose any time, because the Senator can see as well as I do that there is, as there should be, very wide interest in this subject. There are a good many Senators who want to be heard on it, and I think it would be wrong for me to agree to a date now in the absence of a part of the Committee on Military Affairs, who are performing a duty that it was irksome for them to undertake. We were able to get only a small number of the committee to go, because the Military Committee is a working body. In their absence, and without knowing how long they will be engaged, I shall not feel willing to consent to a date at this time.

Mr. FORAKER. I will speak for the Senator from Tennessee. I had a conversation with him about it. He said he could speak at almost any time after he got back. That is what I understood him to say. I do not suppose he will be absent longer than this week. He is simply a visitor at West Point, and I understand that heretofore they have not taken longer than a week.

Mr. WARREN. I will say to the Senator on that point that we have entered upon a new régime concerning the visit to West Point. The House sent us a bill which we finally agreed upon that has changed the mode and manner of it. The examinations previously were held at the close of the year, when all the arrangements were made. I am unable to say, because I have not been informed since the arrival of the members there, how much work they will have to do or how long it will take. I think if the Senator will permit the matter to go over, when they get back we will be able to arrive at some conclusion, but I do not feel willing to-day to agree upon a date.

Mr. FORAKER. I should like to have an agreement for an early date when we can take a vote. I do not want to have it so early but that everybody can be heard who desires to be heard. I think the Senator from Oregon made a good suggestion, that the last day be devoted to speeches of half an hour, or whatever time may be agreed upon.

Mr. FULTON. Fifteen minutes.

Mr. FORAKER. Fifteen minutes he now suggests. I will let it go over, then, for the day.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. M. C. Latta, one of his secretaries, announced that the President had approved and signed the following acts:

On January 11:

S. 1729. An act for the relief of Alice M. Stafford, administratrix of the estate of Capt. Stephen R. Stafford.

On January 12:

S. 1559. An act for the relief of the Citizens' Bank of Louisiana.

RELIEF OF EARTHQUAKE SUFFERERS IN ITALY.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States (S. Doc. No.

649), which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Congress of the United States:

I transmit a report of the Secretary of State, submitting a translation of a note from the ambassador of Italy at this capital, in which, under instruction of his Government, he expresses his desire to convey to the Congress of the United States the lively sentiments of the gratitude of the Italian Government for the sympathy shown by that body in view of the disasters that have devastated Sicily and Calabria, and for the generous appropriation made for the relief of the sufferers.

THEODORE ROOSEVELT.

THE WHITE HOUSE,
Washington, January 12, 1909.

THIRTEENTH AND SUBSEQUENT CENSUSES.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 16954) to provide for the Thirteenth and subsequent decennial censuses and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. LONG. I move that the Senate insist upon its amendments and agree to the conference asked for by the House of Representatives, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice-President appointed Mr. LONG, Mr. HALE, and Mr. MCENERY.

The VICE-PRESIDENT. Does the Senator from Kansas desire to have a reprint of the bill?

Mr. LONG. I desire to have a reprint of the bill, with the Senate amendments numbered.

The VICE-PRESIDENT. Without objection, it is so ordered.

COMMISSIONS TO RETIRED OFFICERS.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the amendments of the House to the bill (S. 653) to authorize commissions to issue in the cases of officers of the army retired with increased rank and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WARREN. I move that the Senate insist upon its amendments and agree to the conference asked for by the House, and that the conferees on the part of the Senate be appointed by the Chair.

The motoin was agreed to, and the Vice-President appointed Mr. WARREN, Mr. SCOTT, and Mr. TALIAFERRO.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After eight minutes spent in executive session the doors were reopened, and (at 3 o'clock and 42 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January 13, 1909, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 12, 1909.

UNITED STATES MARSHAL.

George F. White, of Georgia, to be United States marshal for the southern district of Georgia. A reappointment, his term having expired on December 12, 1908.

REGISTER OF THE LAND OFFICE.

Lon E. Foote, of Colorado, whose term will expire January 17, 1909, to be register of the land office at Hugo, Colo. (Reappointment.)

PROMOTIONS IN THE NAVY.

Commander Washington I. Chambers to be a captain in the navy from the 23d day of December, 1908, vice Engineer in Chief John K. Barton, retired.

Lieut. Thomas A. Kearney to be a lieutenant-commander in the navy from the 17th day of December, 1908, vice Lieut. Commander Charles M. McCormick, promoted.

William P. Sedgwick, a citizen of New York, and late a midshipman in the navy, to be an ensign in the navy from the 5th day of January, 1909, in accordance with the provisions of an act of Congress approved on that date.

POSTMASTERS.

COLORADO.

Austin M. Reed to be postmaster at Silverton, Colo., in place of Austin M. Reed. Incumbent's commission expired April 12, 1908.

CONNECTICUT.

William E. Gates to be postmaster at Glastonbury, Conn., in place of William E. Gates. Incumbent's commission expired January 9, 1909.

Tudor Gowdy to be postmaster at Thompsonville, Conn., in place of Tudor Gowdy. Incumbent's commission expired January 9, 1909.

DELAWARE.

Irwin M. Chipman to be postmaster at Seaford, Del., in place of Edward F. Prettyman. Incumbent's commission expires January 14, 1909.

INDIANA.

Hattie Yarger to be postmaster at Wanatah, Ind. Office became presidential January 1, 1909.

Shad Young to be postmaster at Cicero, Ind., in place of John A. Hall, resigned.

IOWA.

Hays H. McElroy to be postmaster at Vinton, Iowa, in place of George K. Covert. Incumbent's commission expired December 12, 1908.

Edgar O. Winter to be postmaster at Redfield, Iowa, in place of Edgar O. Winter. Incumbent's commission expired January 9, 1909.

KANSAS.

Eva M. Baird to be postmaster at Spearville, Kans. Office became presidential January 1, 1909.

Clarence P. Dutton to be postmaster at McCracken, Kans. Office became presidential January 1, 1909.

Guy A. Swallow to be postmaster at Fort Leavenworth, Kans., in place of Laura Goodfellow, removed.

KENTUCKY.

W. S. Griffith to be postmaster at Benton, Ky., in place of James H. Ford, deceased.

William J. Wade to be postmaster at Smiths Grove, Ky. Office became presidential January 1, 1909.

LOUISIANA.

John Dominique to be postmaster at Bastrop, La., in place of John Dominique. Incumbent's commission expires January 31, 1909.

Francis S. Norfleet to be postmaster at Lecompte, La. Office became presidential January 1, 1909.

MAINE.

Jacob F. Hersey to be postmaster at Patten, Me., in place of Jacob F. Hersey. Incumbent's commission expires January 23, 1909.

MICHIGAN.

Ben F. McMillen to be postmaster at Tekonsha, Mich., in place of Justin A. Harsh. Incumbent's commission expires January 27, 1909.

MINNESOTA.

Frank E. Bardwell to be postmaster at Excelsior, Minn., in place of Frank E. Bardwell. Incumbent's commission expired January 9, 1909.

Elias Steenerson to be postmaster at Crookston, Minn., in place of Elias Steenerson. Incumbent's commission expired December 12, 1908.

MISSISSIPPI.

David A. Adams to be postmaster at Iuka, Miss., in place of Mary G. Stone. Incumbent's commission expires January 31, 1909.

MISSOURI.

J. E. Duncan to be postmaster at Carothersville, Mo., in place of Charles A. Crow, resigned.

Warren T. Myers to be postmaster at Warsaw, Mo., in place of Warren T. Myers. Incumbent's commission expires February 9, 1909.

MONTANA.

C. L. Gayle to be postmaster at Manhattan, Mont. Office became presidential January 1, 1909.

NEBRASKA.

James W. Fairfield to be postmaster at Mason City, Nebr. Office became presidential January 1, 1909.

William A. Grant to be postmaster at Coleridge, Nebr. Office became presidential January 1, 1909.

Lucy K. Partridge to be postmaster at Kenesaw, Nebr. Office became presidential January 1, 1909.

NEW YORK.

Isaac Decker to be postmaster at Williamson, N. Y., in place of Isaac Decker. Incumbent's commission expired January 9, 1909.

Fred A. Green to be postmaster at Copenhagen, N. Y., in place of Fred A. Green. Incumbent's commission expired January 9, 1909.

John W. Hedges to be postmaster at Pine Plains, N. Y., in place of Jay Jackson. Incumbent's commission expired December 14, 1908.

George A. McKinnon to be postmaster at Sidney, N. Y., in place of George A. McKinnon. Incumbent's commission expired December 14, 1908.

William A. Serven to be postmaster at Pearl River, N. Y., in place of William A. Serven. Incumbent's commission expired December 13, 1908.

OHIO.

William W. Reed to be postmaster at Kent, Ohio, in place of William W. Reed. Incumbent's commission expires January 20, 1909.

OKLAHOMA.

James M. Lusk to be postmaster at Dewey, Okla. Office became presidential January 1, 1908.

Mary H. McBrian to be postmaster at Ryan, Okla. Office became presidential January 1, 1908.

Philo R. Smith to be postmaster at Wakita, Okla. Office became presidential January 1, 1909.

OREGON.

Wilbur W. McEldowney to be postmaster at Forest Grove, Oreg., in place of Homer C. Atwell. Incumbent's commission expires January 31, 1909.

Charles W. Parks to be postmaster at Roseburg, Oreg., in place of Charles W. Parks. Incumbent's commission expired December 8, 1908.

PENNSYLVANIA.

David L. Barton to be postmaster at Mercer, Pa., in place of Charles Clawson. Incumbent's commission expired December 15, 1908.

Alexander H. Ingram to be postmaster at Oxford, Pa., in place of Thomas D. Alexander. Incumbent's commission expired December 15, 1908.

Henry G. Moyer to be postmaster at Perkasie, Pa., in place of Henry G. Moyer. Incumbent's commission expires January 31, 1909.

PORTO RICO.

Jose Carrera to be postmaster at Humacao, P. R., in place of Jose Carrera. Incumbent's commission expired December 14, 1908.

TEXAS.

E. P. Butler to be postmaster at Cuero, Tex., in place of William Drawe. Incumbent's commission expired January 20, 1907.

Charles F. Darnall to be postmaster at Llano, Tex., in place of Charles F. Darnall. Incumbent's commission expired December 12, 1908.

Newton H. Eades to be postmaster at Blossom, Tex. Office became presidential January 1, 1909.

Hugh E. Exum to be postmaster at Shamrock, Tex. Office became presidential January 1, 1909.

Frederick Loudon to be postmaster at Fredericksburg, Tex., in place of James Larson, resigned.

Ben Lowenstein to be postmaster at Rockdale, Tex., in place of E. J. M. Hopkins. Incumbent's commission expired December 7, 1907.

John S. McEldowney to be postmaster at Midlothian, Tex., in place of John S. McEldowney. Incumbent's commission expired December 12, 1908.

U. S. Weddington to be postmaster at Childress, Tex., in place of Frankie Houssels. Incumbent's commission expired April 21, 1908.

VIRGINIA.

Howard P. Dodge to be postmaster at Manassas, Va., in place of Howard P. Dodge. Incumbent's commission expires February 27, 1909.

John W. Gregg to be postmaster at Purcellville, Va. Office became presidential October 1, 1908.

WASHINGTON.

F. W. Martin to be postmaster at Cle Elum, Wash., in place of Harry C. Bilger. Incumbent's commission expired December 14, 1908.

William L. Shearer to be postmaster at Toppenish, Wash., in place of William L. Shearer. Incumbent's commission expired December 14, 1908.

WEST VIRGINIA.

Harry W. Smith to be postmaster at Middlebourne, W. Va. Office became presidential January 1, 1909.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 12, 1909.

SUPERVISING INSPECTOR OF STEAM VESSELS.

Daniel J. Dougherty, of Pennsylvania, to be supervising inspector of steam vessels for the seventh district, in the Steamboat-Inspection Service.

CONSUL.

James W. Johnson, of New York, to be consul of the United States of class 7 at Corinto, Nicaragua.

ASSISTANT ATTORNEY-GENERAL.

James A. Fowler, of Tennessee, to be Assistant Attorney-General.

UNITED STATES ATTORNEY.

Fred C. Cubberly, of Florida, to be United States attorney for the northern district of Florida.

SUPREME COURT OF PHILIPPINE ISLANDS.

Sherman Moreland, of New York, to be associate justice of the supreme court of the Philippine Islands.

APPOINTMENT IN THE ARMY.

MEDICAL CORPS.

Col. George H. Torney, Medical Corps, to be surgeon-general, with the rank of brigadier-general, for a period of four years from January 14, 1909.

PROMOTIONS IN THE NAVY.

Commander James C. Gillmore to be a captain in the navy.

The following-named citizens to be second lieutenants in the United States Marine Corps:

Wilbur Thing, a citizen of Maine;
Edwin H. Brainard, a citizen of Connecticut;
Alfred A. Cunningham, a citizen of Georgia;
Alley D. Rorex, a citizen of Alabama;
Samuel M. Harrington, a citizen of the District of Columbia;
Harold L. Parsons, a citizen of New York;
Chester L. Gawne, a citizen of New York;
Dwight F. Smith, a citizen of Vermont;
Thomas E. Thrasher, jr., a citizen of Texas;
Ernest A. Perkins, a citizen of Michigan;
Randolph T. Zane, a citizen of Pennsylvania;
Clarence C. Riner, a citizen of Wyoming;
Leon W. Hoyt, a citizen of Ohio;
David S. Combes, a citizen of the District of Columbia;
Julian C. Smith, a citizen of Maryland;
Alfred McC. Robbins, a citizen of the District of Columbia;
Charles J. Miller, a citizen of Wisconsin;
Otto Becker, jr., a citizen of Missouri;
Leander A. Clapp, a citizen of Massachusetts;
William S. Harrison, United States Marine Corps;
Robert W. Voeth, a citizen of Kansas;
Thomas S. Clark, a citizen of New York;
Clarence E. Nutting, a citizen of Massachusetts;
Bernard L. Smith, a citizen of Virginia;
Edward A. Blair, a citizen of Maryland;
Edward M. Reno, a citizen of Pennsylvania;
Joseph C. Fegan, a citizen of Texas;
Adolph B. Miller, a citizen of the District of Columbia;
Armor S. Heffley, a citizen of Indiana;
Joseph D. Murray, United States Marine Corps;
Woolman G. Emory, a citizen of Maryland;
George H. Osterhout, jr., a citizen of Maine;
William J. Platten, a citizen of Wisconsin;
John Q. Adams, a citizen of Maryland;
Francis T. Evans, a citizen of Ohio;
Charles G. Sinclair, a citizen of Virginia;
Allen E. Simon, a citizen of Pennsylvania;
Samuel P. Budd, a citizen of Pennsylvania;
Donald F. Duncan, a citizen of Missouri;
Alexander A. Vandegrift, a citizen of Virginia;
Ralph E. Davis, a citizen of Illinois;
Harry W. Weitzel, a citizen of Kentucky;
Clarence W. Alger, a citizen of South Dakota;
Sidney N. Raynor, a citizen of New York;
Frederick R. Hoyt, a citizen of New Hampshire;
James T. Reid, a citizen of South Carolina; and
Fred S. N. Erskine, a citizen of Massachusetts.

POSTMASTERS.

GEORGIA.

William R. Watson to be postmaster at Lithonia, Ga.

INDIANA.

Charles A. Frazee to be postmaster at Rushville, Ind.

KANSAS.

James W. Crawford to be postmaster at Little River, Kans.
Ulysses S. Davis to be postmaster at Morrill, Kans.
Bert Fancher to be postmaster at Claflin, Kans.
James Hall, jr., to be postmaster at Miltonvale, Kans.

KENTUCKY.

James M. Wilson to be postmaster at Falmouth, Ky.

MAINE.

Roy M. Hescock to be postmaster at Monson, Me.
John C. Nichols to be postmaster at South Windham, Me.

MASSACHUSETTS.

Charles M. Hoyt to be postmaster at Haverhill, Mass.
Frederic Robbins to be postmaster at Watertown, Mass.

MICHIGAN.

Oliver D. Carson to be postmaster at Galesburg, Mich.
Frank A. Kenyon to be postmaster at East Jordan, Mich.
Newton E. Miller to be postmaster at Athens, Mich.
Maynard Palmer to be postmaster at River Rouge, Mich.

MINNESOTA.

Charles H. Hamilton to be postmaster at St. Louis Park, Minn.
Charles A. Lee to be postmaster at Morris, Minn.
John P. Lundin to be postmaster at Stephen, Minn.
William H. Smith to be postmaster at Cambridge, Minn.

MISSOURI.

Edwin S. Brown to be postmaster at Edina, Mo.
Otis M. Gary to be postmaster at Doniphan, Mo.
Bayless L. Guffy to be postmaster at Hayti, Mo.

NEBRASKA.

Charles W. Gibson to be postmaster at Litchfield, Nebr.

NEW YORK.

Henry W. Bischoff to be postmaster at Chappaqua, N. Y.
Robert N. Hunter to be postmaster at Poughkeepsie, N. Y.
William Hutton, jr., to be postmaster at Nanuet, N. Y.
Harry R. Porter to be postmaster at Sonyea, N. Y.

OHIO.

James R. Hicks to be postmaster at Amelia, Ohio.

PENNSYLVANIA.

Marcellus J. B. Brooks to be postmaster at Driftwood, Pa.
Margaret W. Buchanan to be postmaster at Scalp Level, Pa.
Henry Feindt to be postmaster at Lykens, Pa.
Matthew P. Frederick to be postmaster at Gallitzin, Pa.
Christian E. Geyer to be postmaster at Catawissa, Pa.
William S. Gleason to be postmaster at Johnsonburg, Pa.
John Gowland to be postmaster at Philipsburg, Pa.
William Krause to be postmaster at Richland Center, Pa.
William M. Toy to be postmaster at Austin, Pa.

SOUTH CAROLINA.

Ida A. Calhoun to be postmaster at Clemson College, S. C.
James A. Cannon to be postmaster at Fountain Inn, S. C.
James G. Harper to be postmaster at Seneca, S. C.
Arthur L. King to be postmaster at Georgetown, S. C.
Julia E. De Loach to be postmaster at Ninety Six, S. C.
Roberta McAulay to be postmaster at Woodruff, S. C.

TEXAS.

Lyman E. Robbins to be postmaster at Quanah, Tex.

WEST VIRGINIA.

Lynn Kirtland to be postmaster at Sistersville, W. Va.

WISCONSIN.

Charles E. Bartlett to be postmaster at Cameron, Wis.
George M. Carnachan to be postmaster at Bruce, Wis.
James Carr to be postmaster at Bangor, Wis.
Myron W. De Lap to be postmaster at Abbottsford, Wis.
Frank K. Havens to be postmaster at Prescott, Wis.
Elizabeth K. Nevins to be postmaster at Bloomington, Wis.
Irwin R. Nye to be postmaster at Wittenberg, Wis.
Alfred S. Otis to be postmaster at Maiden Rock, Wis.
Matthew O'Regan to be postmaster at National Home, Wis.
James W. Simmons to be postmaster at Corliss, Wis.
John C. Southworth to be postmaster at Whitehall, Wis.

WITHDRAWALS.

Executive nominations withdrawn from the Senate January 12, 1909.

POSTMASTERS.

SOUTH DAKOTA.

J. R. Calder to be postmaster at Edgemont, in the State of South Dakota.

John D. Cotton to be postmaster at Parker, in the State of South Dakota.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January 12, 1909.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of the proceedings of yesterday was read and approved.

CHALMETTE NATIONAL CEMETERY.

Mr. HULL of Iowa. Mr. Speaker, I ask unanimous consent that House documents 1179 and 226, on a new roadway to Chalmette (La.) National Cemetery, be reported back from the Committee on Military Affairs, and reference of the same changed from that committee to the Committee on Appropriations, which committee has jurisdiction over appropriations for national cemeteries. This refers to a change in the boundaries.

Mr. UNDERWOOD. Mr. Speaker, do I understand this is merely a change of reference that is asked for?

Mr. HULL of Iowa. That is all.

The SPEAKER. Without objection, the change of reference will be made to the Committee on Appropriations.

There was no objection.

BANKRUPTCY ACT.

Mr. TIRRELL, by direction of the Committee on the Judiciary, reported the bill (H. R. 21929) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended by act approved February 5, 1903.

Mr. TIRRELL. Mr. Speaker, I ask unanimous consent in this connection that the minority of the committee may have one week within which to file their views.

The SPEAKER. Is there objection?

There was no objection, and it was so ordered.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. GARDNER of Michigan. Mr. Speaker, I move the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 25392—the District of Columbia appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the District of Columbia appropriation bill, with Mr. OLMSTED in the chair.

Mr. GARDNER of Michigan. Mr. Chairman, by action of the House on Saturday last, debate on this bill is limited to two hours, one half to be controlled by the majority and the other half by the minority. I yield fifteen minutes to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, there has been considerable discussion in the House and throughout the country in reference to a change of the existing rules of the House. It is not my purpose to discuss, in the fifteen minutes allotted to me, the existing rules at all, but the other day we heard two very distinguished Members of considerable length of service in the House, each of whom suggested a change of rules which in each case seemed to the Member to be the desirable change of rules necessary. The distinguished gentleman from New York [Mr. COCKRAN] made the suggestion that the method of changing the rules should be by permitting one-fifth of the membership of the House, or possibly of those present, to demand that any bill in the House should be instantly placed on its passage on a roll call, adding that the same privilege should be extended to the leader of the minority; and this, Mr. Chairman, to be done for the purpose of permitting the expedition of business in the House. There is, in my opinion, no proposition ever submitted to the House in reference to a change of rules which has proved so obstructive to legislation as the suggestion offered.

Imagine the situation during the last session of Congress if the distinguished gentleman from Mississippi [Mr. WILLIAMS], the then leader of the minority, had the right on demand to commence with bill No. 1 of the House, going down as far as he could get toward bill No. 25000, demanding a roll call on each bill as a privileged matter! Yet that was the suggestion seriously made to the House by a Member of long standing in the House, who properly prided himself on the fact that he came here many years ago. Nor would such a rule if in force be to the interest of the minority so far as actual legislation is concerned. It is to be noted, Mr. Chairman, that the suggestion of the gentleman from New York is toward eliminating debate in the House. He had reference in his mind to a minority putting the majority in a hole in the House. But supposing the rule should be in force, and at the next session of the House, when we have before us a tariff bill, one-fifth or 20 per cent of the Republican Members of the House should

demand a roll call on the tariff bill without consideration, without debate, without amendment. It might be a desirable thing from the point of view of some Members of the House, but would any gentleman here seriously favor that that should be done, as suggested by the gentleman from New York, at the request of one-fifth of the membership of the House, to vote upon the passage of a great tariff bill without debate, without amendment, without opportunity for consideration? The mere suggestion seems to me to be sufficient to eliminate the proposed amendments of the gentleman from New York [Mr. COCKRAN.]

Mr. FITZGERALD. Mr. Chairman, is not it practically true that, on the suggestion of the majority, the currency bill as finally passed was adopted practically without amendment or opportunity of amendment?

Mr. MANN. Well, does the gentleman approve of it?

Mr. FITZGERALD. No.

Mr. MANN. Then, if the gentleman does not approve of it, why does he call it to my attention for the purpose of proving the desirability of a rule permitting any bills to be passed that way?

Mr. FITZGERALD. The gentleman has been criticising a suggestion of what might be done at the instance of the minority leader, and yet he supported a rule that made it possible to do it at the suggestion of the majority. What is the difference?

Mr. DOUGLAS. Was it not a rule of the minority leader?

Mr. MANN. No; the gentleman may give an instance, but when asked if he approves of it he says he does not, and yet does he approve of the suggestion of his colleague that any bill may be presented for passage at the request, not of the majority of the House, but at the request of one-fifth of the membership of the House, or at the request of one Member of the House, the leader of the minority? Now, Mr. Chairman, having called attention to the suggestion——

Mr. DOUGLAS. Will the gentleman yield?

Mr. MANN. I only have fifteen minutes.

Mr. DOUGLAS. Very well; I only thought the gentleman did not state the proposition correctly.

Mr. MANN. The gentleman says I did not state the proposition correctly. Very likely not. I stated it to the best of my ability. Now, I wish to call attention to another amendment, worked out in careful detail by one of the Members of this House, who, in my opinion, is as well posted on the rules of the House as any Member in it, the gentleman from Massachusetts [Mr. GARDNER]. I regret that in his discussion of the rules of the House the other day he did not discuss his own rule. I did not have the honor to hear all of his speech then, but this morning I read it in the RECORD, and I supposed there would be an explanation of the rule. I wish to call attention, in the few moments which I now have, to what the effect would be, or might be, by the adoption of this rule so carefully worked out by this distinguished parliamentarian, who knows the rules as well as anyone in the House does, in my opinion. His rule proposes that there shall be set apart one day in each week during the session of Congress for the consideration of certain bills on the House and Union Calendars and not otherwise privileged; that on those days one day in the month is to be set aside for the consideration of bills on the House Calendar or bills on the House Calendar having preference. The other Tuesdays are to be for bills on the Union Calendar. Under the proposed amendment the House must commence the consideration of these bills immediately after the reading of the Journal, without any other business.

The rule provides on calendar Tuesday, except as provided in clauses 8 and 9 in that rule, no business shall be in order except prayer by the Chaplain, reading and approval of the Journal, business on the calendar of the Committee of the Whole, and business on the House Calendar, provided that business under clause 61 of Rule XI, or under clause 9 of Rule XIV, shall not be in order. Under this proposed rule it would not be possible for the House on these days to transact any business except the business suggested until the time of adjournment came or after the hour of 4.45. The House could not receive a conference report; it could not act upon a conference report; it could not in any way dispose of a conference report; it could not adjourn even if a Member of the House should die on the floor of the House; it could not take a recess if the Capitol should be on fire——

Mr. GARDNER of Massachusetts. Will the gentleman permit?

Mr. MANN. Certainly.

Mr. GARDNER of Massachusetts. I desire to call the attention of the gentleman from Illinois that I provided for just such contingencies on motion of a two-thirds vote and also for reverting to the regular order of business in case those calendars are exhausted.

Mr. MANN. I will endeavor to explain to the satisfaction of the gentleman that he has provided no such rule.

Mr. COCKRAN. Will the gentleman yield to me? I have just come in. I understood the gentleman to state I proposed that the same number required to order the yeas and nays—that is, one-fifth of those present—should have the right to move the consideration of any measure, and that a vote should be taken on the motion without debate. I did not make it an absolute condition that the vote should be taken without debate. Whether debate should be allowed and the extent of it would always be under the control of the House.

Mr. MANN. How would they get a vote if the majority had unlimited debate?

Mr. COCKRAN. Nobody contends for a moment, Mr. Chairman, that these other rules, cutting short debate, should be removed from the control of the majority.

Mr. MANN. Unless the gentleman's proposed rule would force a measure to debate, it amounts to nothing, and if it does it permits the cutting off of debate absolutely.

Mr. COCKRAN. Mr. Chairman, I must ask the gentleman to excuse me, as I was not present when he made his statement. I supposes he does not want to criticise anything that was not actually said. All that I contend for is that the majority in control of the House should always be held to show that it is a majority, and that some appreciable proportion of the membership of the House, not necessarily one-fifth—a majority, if you choose—in some way or other ought to be given power to move consideration of a measure and to get a vote on that proposal, the extent of debate, if any, always being in control of the majority present. That was my contention.

Mr. MANN. I hope the gentleman will properly revise his remarks when they appear in the RECORD.

Mr. COCKRAN. They will be in the RECORD to-morrow. I have been away.

Mr. MANN. Referring to what the gentleman said on the floor of the House——

Mr. COCKRAN. It is entirely my fault that the remarks are not in the RECORD now. They will be in the RECORD to-morrow morning.

Mr. MANN. I am not criticising the gentleman in that respect.

Here would be the first situation that would arise under the proposed rule of the gentleman from Massachusetts [Mr. GARDNER]: This morning there is not a quorum in the House. Under the rule proposed by the gentleman from Massachusetts, if we should choose now to make a point of no quorum in the House, you could not even have a call of the House.

Mr. GARDNER of Massachusetts. Why not?

Mr. MANN. Because the call of the House is business of the House.

Mr. GARDNER of Massachusetts. That is a motion which is permitted under the general rules. None of the general rules are suspended.

Mr. MANN. Oh, here is the proposed rule of the gentleman, providing, in clauses 8 and 9 of the rule, that no business shall be in order except prayer by the Chaplain, reading and approving of the Journal, and business on the House and Union Calendars, which may be considered under the rule, and if there is no quorum in the House, the House can not proceed to a call of the House, because that is business.

Mr. GARDNER of Massachusetts. The gentleman may be correct. It was my object in introducing this rule that small points like that should be pointed out.

Mr. MANN. That is the reason I am endeavoring to help the gentleman by calling attention to this matter, so that he may add a lot more sections to his rule to cover these possibilities.

Mr. GARDNER of Massachusetts. I understand the gentleman from Illinois [Mr. MANN] approves the general purpose of the rule?

Mr. MANN. The gentleman has a very vivid imagination.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. MANN] has expired.

Mr. GARDNER of Michigan. I would like to ask how much more time the gentleman from Illinois desires to consume?

Mr. BURLESON. I will yield the gentleman from Illinois fifteen minutes.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is recognized for fifteen minutes more.

Mr. MANN. Now, the gentleman suggests that under his rule you could have a call of the House. The Constitution provides that less than a quorum may adjourn. It provides that the House may by its rules authorize a smaller number

than a quorum to compel the attendance of absent Members, but that is business. The gentleman's amendment would not permit the House to transact any business at all on any Tuesday of the session unless, after the reading of the Journal, there was a quorum in the House and any Member chose to make the objection. That is not all. The Committee on Enrolled Bills of the House has the privilege of reporting bills constantly now, and in the last days of the session it is very important that that committee should be permitted to report to the House at any time. But the gentleman's amendment forbids the Committee on Enrolled Bills reporting a privileged measure to the House.

Mr. GARDNER of Massachusetts. Mr. Chairman——

Mr. MANN. I yield to the gentleman.

Mr. GARDNER of Massachusetts. I will ask the gentleman from Illinois to read the very first line of the very first section of the rule for calendar Tuesday.

Mr. MANN (reading)—

Except during the last six days of a session.

Mr. GARDNER of Massachusetts. That answers the gentleman's contention.

Mr. MANN. Does the gentleman think it essential that during the last six days of a session the rule should not be in force?

Mr. GARDNER of Massachusetts. Inasmuch as it is in the very first line, it is a fair assumption that I do not think it should be in force.

Mr. MANN. May I ask the gentleman a question? Does the gentleman think it essential that the rule should not be in force?

Mr. GARDNER of Massachusetts. I am not prepared to say, but my rule suggests that it shall not be in force, which is in the rule.

Mr. MANN. Quite the contrary. The rule suggests nothing of the sort. During the last six days of the short session the rule would not be in force, but during the last six days of the first session the rule would be in force.

Mr. GARDNER of Massachusetts. Mr. Chairman——

Mr. MANN. If the gentleman will content himself, his rule will be in force except "during the last six days of the session or after the adoption by both Houses of Congress of a concurrent resolution of adjournment sine die."

Now, we all know that it is impossible to adopt a rule for final adjournment by both Houses at the long session of Congress until we come up to the last day of the session. Whenever this House has been first prevailed upon to send over a resolution to the Senate earlier in the session adopting a final day for adjournment, we have found that the House invariably has been held up by the Senate in conference, until the practice has come to be for the House, in defense of its having the custom of originating the resolution for final adjournment, not to provide for final adjournment until the business of the session is practically disposed of. By the gentleman's amendment, if the House were in session on Monday or Tuesday and wanted to adjourn on Wednesday, it could not receive any of the business practically belonging to the session, because engaged, perhaps, in discussing the final passage of a bill that could not possibly become law.

Mr. GARDNER of Massachusetts. Will the gentleman allow me?

Mr. MANN. I yield to the gentleman.

Mr. GARDNER of Massachusetts. Mr. Chairman, I would like to ask permission of the gentleman from Illinois to offer in his time, if it be permissible in Committee of the Whole, as an answer to his question, a number of precedents to the contrary.

Mr. MANN. Very likely the precedents are different. Usually, when I first came here, the resolution would be presented and sent to the Senate, fixing the date for adjournment. It was never finally passed by the House unless we yielded to the Senate conferees or the legislation would be lost.

Now, Mr. Chairman, the rule further provides with reference to the Union Calendar, the Speaker, without having a motion made, without putting a motion—

shall immediately leave the chair after the reading of the Journal, resolve the House into Committee of the Whole House, and call a chairman to the chair.

The House puts itself into Committee of the Whole. Of course the purpose is to have the House then proceed with business on the Union Calendar. Suppose this rule had been in force during this Congress; let us see what the practical effect would have been. We have for some time been considering the penal code. The penal code was the second public bill reported to the House at the last session of Congress. It was the only bill that belonged on the Union Calendar on the first calendar Tuesday in January, there having been no bills on the calendar in December; and under this rule the penal code would have come up for consideration in Committee of the Whole House on the first calendar Tuesday in January, and we would still be considering the penal code on this calendar Tuesday up to this time.

Mr. GARDNER of Massachusetts. Mr. Chairman——

Mr. MANN. I yield to the gentleman.

Mr. GARDNER of Massachusetts. The gentleman entirely forgets that the question of consideration can be raised in Committee of the Whole.

Mr. MANN. I will call attention to the fact that that question can not be raised at all in Committee of the Whole.

Mr. GARDNER of Massachusetts. Oh, Mr. Chairman——

Mr. MANN. The gentleman's rule provides that—

In Committee of the Whole the chairman of the committee shall call each standing committee in regular order, and the committee when named may call up for consideration any bill reported by it on a previous day.

The committee has the right under the proposed rule, when it is named, to call up any bill on that calendar. But that is not all. Under another provision of the rule it provides—

That if when the committee rise that bill is not disposed of, and this committee goes into session again on the next calendar Tuesday, preference shall be given to the last measure under consideration.

There is no escape. It does not leave it to the committee to decide, but the House, by its rule, decides that the bill, having been under consideration in one session, the House shall continue to consider it until it is disposed of. Now I yield to the gentleman.

Mr. GARDNER of Massachusetts. In the first place, that provision in the rule is copied verbatim from the present rule for call of the calendar, and I doubt if the construction has ever been put upon it that the question of consideration can not be raised.

Mr. MANN. Ah, but the gentleman——

Mr. GARDNER of Massachusetts. One minute. Please let me finish. The other day in debate the gentleman from Pennsylvania [Mr. OLMSTED] made that statement, that the question of consideration could not be raised in the Committee of the Whole. I asked the parliamentarian of the House, and he rendered a different opinion.

Mr. MANN. I do not know what the parliamentarian of the House may have said about it. One thing is quite certain: The parliamentarian of the House can not openly override the express language of the House rule.

Mr. GARDNER of Massachusetts. By no means.

Mr. MANN. Here is the express language of the House:

This bill shall be considered in preference to all other bills.

Now, what happens further? Under the rule proposed, no motion to adjourn, or to take a recess, or that the Committee of the Whole rise shall be in order before 4 o'clock and 45 minutes, unless the business in order under clause 4 of this rule has been disposed of. Every bill on the Union Calendar except privileged bills, every bill on the House Calendar, is in order under the rule on these days; so that until all the business on the calendar is disposed of and the calendar is cleared it is not in order, under this proposed rule, to rise or to adjourn or to take a recess.

Then comes the next rule. And it is peculiar, to my mind, that the gentlemen who most criticise the rules of the House because they permit legislation without debate invariably propose that their bills shall be passed without consideration.

Mr. GARDNER of Massachusetts. If the House by a majority vote says so.

Mr. MANN. That is the case now. The gentleman's rule proposes to limit debate. He proposes that at any time after the expiration of forty minutes devoted to the consideration of a measure in Committee of the Whole it shall be in order to move to close general debate, and this motion shall be decided without debate.

Let us understand how this rule might work. The gentleman has charge of a bill on the floor of the House. He occupies an hour's time under the rules, unless he is cut off. He speaks for forty minutes in favor of the bill. The majority do not wish the minority to discuss the bill in general debate, and after the gentleman has occupied forty minutes, by a preconceived plan, I arise and ask the attention of the Chair and move to close general debate. I can take the gentleman off his feet to make that motion. The gentleman has expended forty minutes' time speaking for the majority in favor of the bill. The majority votes in favor of the motion to close debate. The minority is left without a chance to discuss the bill at all. And yet the gentleman's measure comes in as a proposition to permit the consideration of bills.

I have not wondered sometimes that some of the gentlemen who were criticising the rules because certain measures had

not been disposed of in the House wished to stop debate. Many of those measures will not bear the light of day in debate, and I do not wonder that often, having bills of that sort, they wish to bring them before the House as the gentleman from Massachusetts [Mr. GARDNER] does, and as I have understood—though I do not now understand it that way—the gentleman from New York desired—to force a vote without debate and without consideration.

Mr. GARDNER of Massachusetts rose.

Mr. MANN. I yield to the gentleman.

Mr. GARDNER of Massachusetts. The gentleman has not contended that the objection to stopping debate was because it stopped discussion but because it stopped amendments, and that provision included in my rule does not stop amendments. As it is at present, you can stop debate after one minute's discussion.

Mr. MANN. Oh, you can do that under your rule. Your rule does not change it as to the House. Your rule only limits debate in Committee of the Whole, but does not change it in the House.

Mr. GARDNER of Massachusetts. But it does not prevent amendment.

Mr. MANN. You extend to the Committee of the Whole less time for debate than is now given by the rules of the House. You propose to take away the privilege that the Committee of the Whole has always exercised. The purpose for which the Committee of the Whole is created is to permit more debate than can well be permitted in the House. Now, I wish to proceed. I have not much time.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BURLESON. I yield to the gentleman five minutes more.

Mr. MANN. Mr. Chairman, having provided in his amendment that the House should not adjourn or the committee rise until 4.45 o'clock, he then brings in an exception, which he called attention to a while ago, and which I wish very briefly to discuss. I am sorry I have not time to discuss all the other provisions of the resolution.

Clause 8. On calendar Tuesday, either in the House or in Committee of the Whole House on the state of the Union, at any time when no measure is under consideration, shall be in order to move that further proceedings under this rule be suspended for the day.

The motion could not be made when any measure is under consideration. I call the attention of the House or the committee to the proposition that if this rule had been in force at the last session of Congress we would probably have been engaged, if anybody desired it, every calendar Tuesday in Committee of the Whole in consideration of the penal code; and while the measure was under consideration no motion to rise could be made, no matter if nine-tenths of the committee wished to rise.

Mr. GARDNER of Massachusetts. That is a good criticism.

Mr. MANN. For instance, we have the penal code yet before us. There is no chance for the House bill penal code to become a law; there may be a chance for the penal code to become a law in the end by conference on the Senate bill; and yet under the gentleman's proposed rule we could be kept here every Tuesday on the penal code, or, if the code was out of the way, on the next long bill on the calendar, discussing every Tuesday a bill without a chance to conclude it, without a chance to rise, without a chance to do any other business, or without a chance to enact it into law.

That would be coming to a pretty pass, with one day of the week absolutely wiped off the calendar so far as the transaction of business is concerned under the gentleman's rule. Of course the gentleman assumes that the House and committee might not do all of these things or, perhaps, that such a bill would not be presented; but the object of the gentleman is to force the House, or the minority of the House, or, perhaps, the majority of the House, into the consideration of something it does not wish to consider, and the gentleman must remember that no matter what rules may be enacted, when people wish to obstruct legislation they use the power that is in the rules, and if the gentleman's rule permits it, then he fails to accomplish the purpose he seeks.

That would not be all. We might under the gentleman's rule be kept sitting here from 12 o'clock to 4.45 o'clock, calling the committees one after the other, time and again, without a chance to rise or adjourn. They could commence with the first committee and call down to the end, and then commence again with the first committee and call to the end, and then go to the head of the first committee and call through them all again; and if no committee called up a bill, it would still be without the power of the Chair to entertain a motion to rise, because until every bill on the calendar is disposed of that bill is in order whether called up or not, and the House could not adjourn so long as a bill remained on the calendar which could be called up.

Mr. GARDNER of Massachusetts. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. GARDNER of Massachusetts. Does the gentleman remember the first time that the call of committees took place this session?

Mr. MANN. I do.

Mr. GARDNER of Massachusetts. Less than an hour was occupied therein. Was the call repeated?

Mr. MANN. The next day, I believe.

Mr. GARDNER of Massachusetts. But not during that same hour?

Mr. MANN. No; but we were not operating under the gentleman's rule. We adjourned when we finished the call of the calendar that day, but the gentleman does not permit an adjournment so long as there is any business on the calendar that is in order under the rule, and any bill on the calendar except privileged bills is in order under the rule, whether called up or not.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. BURLESON. Mr. Chairman, I yield sufficient time to the gentleman from New York [Mr. COCKRAN] to ask a question.

Mr. COCKRAN. I desire to ask the gentleman from Illinois if he would object, or can suggest any grounds of objection, to the appointment of a committee representing both sides of the Chamber to consider whether the rules are capable of amendment, and to make its recommendations before the end of this session? That is the only proposal I made to the committee.

Mr. MANN. I did not so understand the gentleman. What I would suggest is, the gentleman from New York having had a very long experience in the House and being one of its shining lights, that he prepare the amendments that he thinks should be made to the rules and introduce them as amendments to the rules so that we may consider them. There are many things which the House might do. They might appoint a committee on every conceivable purpose in the world, but let us have suggestions made for the amendment of the rules. I do not regard the rules like the laws of the Medes and Persians. I regard the rules as capable of amendment, and I would like to consider the amendment which is proposed.

Mr. COCKRAN. Will the gentleman allow me? The gentleman will bear me witness, I think, that in the discussion which occurred the other day my proposal simply was that some means should be devised by which the existence of a majority could be challenged on the one side and established on the other on a motion for consideration of any specific proposal. I did not suggest a way by which that could be done, because I do not profess to know a way, but I do suggest that able parliamentarians like the gentleman from Illinois, in the interest of the credit to which this House is entitled, but which I do not think it enjoys in the full degree of its merits, should devise a method by which that very desirable result might be accomplished. That is the whole of my proposal. Does the gentleman think that it is other than valuable?

Mr. MANN. Oh, Mr. Chairman, I think that anything that emanates from the gentleman is of value to the House; any contribution he makes either in regard to the rules or any other subject before the House is a valuable contribution to the House and to the country. Now, the gentleman and I would agree upon this——

Mr. COCKRAN. That is all I want to get at—a point of agreement.

Mr. MANN. That the prime purpose of a rule is to permit the enactment of business and at the same time secure the rights of the individual Member and in party government the rights of the minority.

Mr. COCKRAN. Well, the gentleman, I think, misapprehends what I said in regard to that. I stated that the only right of the minority is to be sure that it is a minority, and the only way you can establish that is by counting it.

Mr. MANN. I am talking about a partisan majority.

Mr. COCKRAN. A gentleman here suggests to me now that the majority was established at the election. My conception of the constitution and government of this House is that the existence of a majority should be established on each specific proposal.

Mr. MANN. I fully agree with the gentleman on that proposition.

Mr. COCKRAN. And therefore I think the gentleman is at one with me—that it would be advisable to see if we could establish some method by which the existence of a majority

could be established whenever challenged from a responsible source.

Mr. MANN. I will say to the gentleman that under the rules as now in force if I had charge of a bill which I wished to force to a vote, with a majority behind me, I would not care what the bill was under the rules as they now exist. I have that power directly, and not indirectly as has been suggested by the gentleman from Massachusetts [Mr. GARDNER].

Mr. PAYNE. And without regard to the attitude of the Speaker.

Mr. MANN. Without regard to the attitude of the Speaker.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURLESON. Mr. Chairman, I yield twenty minutes to the gentleman from Alabama [Mr. UNDERWOOD], or so much thereof as he desires to consume.

Mr. UNDERWOOD. Mr. Chairman, in the discussion of this question of rules I take it that it depends very largely on the size of the body that is to be governed by the rules as to what kind of rules we need for the government. The rules that we now have in this House have come down to us with some amendments, not many, from the original Congress. They have been changed from time to time to meet the emergencies and conditions of the business of this House as it develops. I believe that when the original Congress assembled there were 65 men then Members of this body. To-day we have 391. It is apparent that a very different set of rules would be suitable to the government of 65 men from the rules that would be needed to properly govern a body consisting of 391 men. I take it that the primary object of a set of rules is to do business. That is the first proposition, and the next proposition is to do business by the will of the majority of the legislative body that has adopted the rules.

Now, in the early history of this country we had reasonably lax rules for the government of the House of Representatives. It is apparent that a board of directors consisting of twelve or fifteen men practically need no set of rules to run their business. That a Congress consisting of 65 men needed very little in the way of rules to transact business is quite apparent. It is shown in the United States Senate to-day, where they have less than 100 members, and it is not necessary for them to adopt a cloture rule at all to do business; but I do not suppose there is a man in this House who will not readily agree that it would be impossible for the House of Representatives to do business at all without a cloture rule. We would simply be a mob of 400 men if we did not have rules under which we could transact the business of this House. With the large number of bills that are introduced here, the thousands of bills that are put on the calendar and the Members desire considered, it is absolutely necessary that we shall have some governing body to direct our movements toward the passage of bills. It is the same as if you had a tank at which 100 horses could get water and you brought a thousand horses there to water. Somebody would have to select the 100 horses that were going to receive the water. It is the same way with the government of this House. Somebody must determine what bills are going to be considered and at what time.

Mr. GILLESPIE. Will the gentleman yield for a question?

Mr. UNDERWOOD. Yes.

Mr. GILLESPIE. Now, if you take time enough, by watering 100 horses at a time you could water the 1,000.

Mr. UNDERWOOD. Oh, I assumed that there was water enough in the tank only for 100 horses.

Mr. GILLESPIE. The same rules that will govern a body of 65 men may govern a body of 400, if the 400 would take more time and devote more time to the business of the Government. Now, do we want to frame a set of rules that will enable 400 men, under the control of probably 20 of them, to come here and in from thirty to ninety days rush through such of the business of the country as these few men may think proper, or should we have more liberal interpretation of the rules securing larger debate and freer use of the right of amendment? It appears to me the latter is what we need; and then remain in session longer and devote more time than we do to the consideration of measures of general public interest.

Mr. UNDERWOOD. I agree with the gentleman in part, but not in all. I do not think we want any rule, I do not think we want any management, of this House that will rush the business of this Congress through in ninety days; neither do we want a rule of this House which will enable any party by a filibuster to take three hundred and sixty-five days to do its work and then not finish its work. Now, under the old system of rules we originally had in this House it was possible for a small minority to prevent business in any way and at any time, and I say that these rules should have been abandoned at the time they were abandoned. They were good enough for a small body of men, but when the number of men in this House increased to the size where these rules could not prevent a filibuster and could not prevent the passage of legislation by a small minority of men, but prevent a real majority from doing business, then they should have been abolished when they were abolished by this House, and the country approved of it, and we approve of it to-day. Now, I say, when we come from that point, a point where it was necessary for us to adopt rules under which this House could do business and do business by the will of the majority, the pendulum swung to the extreme end of the other side.

Instead of adopting a rule by which this House could do business by the will of the majority, we adopted a rule by which we could do business by the will of one man. That is my objection to these rules, and not that the House should not do business and not that the majority should not do business in the way that the majority elects to transact business.

Mr. OLLIE M. JAMES. Will the gentleman yield——

Mr. UNDERWOOD. But I do object to a set of rules that enables one man to absolutely hold the veto of the legislation of this country.

Mr. OLLIE M. JAMES. I would like to ask the gentleman if it is not true that the curtailment of debate and the shutting off of all amendment to all important bills which we have had for the last two Congresses has been caused by special rules which were adopted by a majority of the House and against the protest of the minority always?

Mr. UNDERWOOD. Oh, undoubtedly.

Mr. MANN. The railroad rate legislation was as important as any brought before the Congress.

Mr. UNDERWOOD. Oh, we have had many important bills considered in this House by unanimous consent. There are times in this House when we can consider the most important legislation without any rule at all; but I say that these rules now are written so that if the Speaker does not desire the consideration of any question to come before this House that a majority wish, he can prevent it. I am not talking about political parties—not the Republican side of the House nor the Democratic side of the House—but I am talking about a majority that consists of more than half of the Members on the floor voting on the subject; that is what I mean by a majority. Now, I am not criticising the present Speaker. I have served on the Committee on Rules under one of his predecessors, a gentleman whom I respected and loved very much in his personal character, but I know this, as a member of that Rules Committee, that when an important question came up and a meeting of the Committee on Rules was called and the minority members came into the committee, with a smile the Speaker informed us that he had summoned us there to tell us what he is going to do. That is what we were sent for, to receive information of what was going to be done.

Now, I say that kind of procedure may be responsive to the wishes of a political party; it may be responsive to the wishes of a majority of a political party in power in this House, but it is not responsive to the wishes of a majority of the people of this House, and it is not always responsive to the wishes of a majority of the people of the country. Having met that condition and reached that position, I say that the time has come when we need another amendment to these rules. As I stated before, we amended the rules of the House some years back so that a majority could do business, or so the House could do business, and I say the time now has come when we should again amend these rules so that a majority of this House shall say what business shall be done. There is no Member of this House who is not on the Rules Committee, or there is no Member of this House, except the Speaker of the House—and, mark you, I am not criticising the present Speaker, who is working under the rules that we put in his hands; we have given him the power and he is carrying out the powers that we have given him—who can say what business we will transact to-morrow morning.

It is absolutely in his power. If two-thirds of the membership on the floor of this House desired some particular bill to come up first to-morrow morning for consideration, and it did not meet with the approval of the Speaker, you could not take it up, and you know it. Although the Rules Committee could bring in a rule, and there are two other gentlemen on the Rules Committee besides the Speaker, you know and I know that they will not report a bill to this House that does not meet with the approval of the Speaker.

Now, I do not agree with the proposition of the gentleman from Massachusetts [Mr. GARDNER] who wants to fix a calendar by which we shall do business, a machine where you can put a nickel in the slot and grind out legislation. This House should be governed by intelligence, not by machinery. The House

should take up intelligently the bills it wants to consider and enact them into law. There are many bills on the calendar of greater or less importance, and we would displace the consideration of an important bill by adopting a machine rule that requires us first to consider unimportant legislation.

But I do say there is one way in which this matter can be remedied, and only one. Make the Committee on Rules responsive to the will of the majority of the Members of this House. When you have done that you will have under the rules the power to do business, and you will have under the rules the power to do the business that the majority of this House wants done. It will only take a few lines written in the present rules, simply saying that this House shall elect a Committee on Rules at the beginning of each session of Congress, who shall have the same powers that are invested in the present Committee on Rules, and that that Committee on Rules, elected by this House, shall be subject to removal by a majority of the Members of this House at any time by resolution offered. You would then have a committee before which you could appear, present your bills, argue your case and ask for consideration. You would have a committee that, scattered through the membership of this House, would come in daily contact with that membership. You would have a committee that reflected the real sentiment of the membership of this House and the real sentiment of the country.

Mr. CAMPBELL. Will the gentleman permit a question?

Mr. UNDERWOOD. Certainly.

Mr. CAMPBELL. How large would you make that committee?

Mr. UNDERWOOD. I would make it large enough to reflect the sentiment of this House. I would put 15 men on the committee. What we want to do is to transact the business that the majority of this House wants and the country wants, and not have one man determine what business we ought to legislate about.

Mr. CAMPBELL. How would you divide that committee in the House as between the parties?

Mr. UNDERWOOD. I would give liberally to the majority party in the House. The majority party in this House is responsible for its legislation. It is responsible for its government, and I would give a liberal majority of the Committee on Rules to the majority party of the House. But there might be times when the majority party was not responsive to the will of the country, and that then some of its Members going to the minority party would bring legislation before the House that the country demanded and wanted, and rightly bring it before the House. But if you had a committee of 15 men, I would not resist a proposition to give the majority 10 of them and the minority 5. I would have no desire in the world to break down the power of the majority party in this House to do business, but I have a great desire to institute a rule in this House by which a majority of the Members of the House may say what business shall be transacted. [Applause.]

I yield back the balance of my time.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. BOUTELL having taken the chair as Speaker pro tempore, a message, in writing, from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed joint resolution and bills of the following titles:

On January 6, 1909:

H. J. Res. 208. Joint resolution providing for expenses of the House Office Building.

On January 9, 1909:

H. R. 22879. An act to amend an act entitled "An act to amend an act to authorize the city of St. Louis, a corporation organized under the laws of the State of Missouri, to construct a bridge across the Mississippi River," approved January 23, 1908.

On January 11, 1909:

H. R. 13649. An act providing for the hearing of cases upon appeal from the district court for the district of Alaska in the circuit court of appeals for the ninth circuit.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

Mr. BURLESON. Mr. Chairman, I yield to the gentleman from Ohio [Mr. DOUGLAS] three minutes.

Mr. DOUGLAS. Mr. Chairman, I simply want to say that in the short time that I have been a Member here I have listened carefully to the criticisms that have been made from time to time of the rules of the House. I insist that there is too much of dealing in general criticism, without anything specific. I hoped the gentleman from Alabama [Mr. UNDERWOOD] would say what rule or rules of the House give to the Speaker of the House the inordinate powers which he claims he exercises. I confess I do not find it.

Mr. NORRIS. Will the gentleman permit a question?

Mr. DOUGLAS. I beg pardon, but I have only three minutes, and I want to speak of another matter.

It seems to me this, that the mistake of the gentleman from New York [Mr. COCKRAN] consists in the assertion that this House should be and is at all times to be governed by the majority present. I do not believe that is the theory of our Government. It is, as I said to him here in our seats just now, the permanent majority of this House that is responsible to the country for the Government and the laws—the majority elected by the people.

Mr. UNDERWOOD. I would like to ask the gentleman from Ohio where he finds in the Constitution of the United States any theory by which a political party shall govern this country, and not a majority of its representatives?

Mr. DOUGLAS. I do not find it written in the laws, but neither do I find anything in the laws of England providing that England shall be governed by a cabinet. The cabinet is not recognized by the laws of England anywhere, and yet England is governed substantially by this cabinet.

Mr. UNDERWOOD. Just let me say this: The gentleman will find in the Constitution of the United States a very distinct provision that the laws of this country shall be enacted by the majority of the membership of this House.

Mr. DOUGLAS. That is true. But the majority of this House which is responsible for the laws is the permanent political majority which exists in the House, and not the temporary majority which may be here from day to day. That, I think, is the inherent trouble with the argument of the gentleman from New York [Mr. COCKRAN], who urges that the majority at any time present in the House should have the right to insist on the consideration of this or that bill. As a matter of fact, Mr. Chairman, the majority in this House is a political majority. It is here in the contemplation of the people and of the House all the time, and it, and not the majority which may be present to-day or to-morrow, is responsible for the laws passed and for the business of the House.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FOSTER of Vermont, having taken the chair as Speaker pro tempore, a message from the Senate by Mr. Crockett, its reading clerk, announced that the Senate had passed bills of the Senate of the following titles, in which the concurrence of the House of Representatives was requested:

S. 7925. An act to create an additional land district in the State of Montana, to be known as the "Harlowton land district;"

S. 7992. An act to amend an act entitled "An act to provide for participation by the United States in an international exposition to be held at Tokyo, Japan, in 1912," approved May 22, 1908;

S. 7918. An act for the relief of Bernard W. Murray;

S. 7785. An act relative to outward alien manifests on certain vessels;

S. 7640. An act to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk and Southern Railway Company;

S. 7378. An act to extend the time for the completion of a bridge across the Missouri River at or near Yankton, S. Dak., by the Winnipeg, Yankton and Gulf Railroad Company.

S. 7257. An act providing a means for acquiring title to private holdings in the Sequoia and General Grant national parks in the State of California, in which are big trees and other natural curiosities and wonders.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill of the following title:

S. 4856. An act authorizing the Secretary of Commerce and Labor to lease San Clemente Island, California, and for other purposes.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

Mr. BURLESON. I yield to the gentleman from Nebraska one minute.

Mr. NORRIS. Mr. Chairman, I have but one minute, but in that time I want to answer the question of the gentleman from Ohio. He says he wants somebody to point out to him the rule that gives to the Speaker this great power that is complained of

so much. My answer to the gentleman is that the rule that gives the Speaker power to appoint all the standing committees of the House, which practically control all of the legislation of the House, is, in my judgment, the rule that is obnoxious to those who think that the Speaker has too much power. [Applause.] At a future time, when I can get sufficient time, I want to go further into the proposition upon which the gentleman has invited discussion, and to point out wherein the rules are objectionable, and wherein, in the minds, at least, of some of us, they can be improved.

Mr. GARDNER of Michigan. Does the gentleman from Texas wish to occupy any more time now?

Mr. BURLESON. No.

Mr. GARDNER of Michigan. Mr. Chairman, in the five legislative days that have intervened since this bill was reported to the House for its consideration much of interest has occurred, some of it historic and much otherwise. Nothing in all of the debates on the various themes has touched the bill under consideration, a bill which more deeply concerns the Capital City of the Nation and the residents therein for the ensuing fiscal year than any other measure before the House or that is likely to come before it.

The Committee on Appropriations, in framing the District of Columbia appropriation bill for the fiscal year ending June 30, 1910, were confronted by a financial consideration, present and prospective, that they felt ought to be laid before the House.

The Commissioners of the District estimate the needs for the ensuing fiscal year at $16,000,000, in round numbers. The revenues of the District were estimated at a little over $6,000,000. This sum, supplemented by the contribution of the General Government, provides $12,000,000 for the revenues and for the expenditures of the District for the next fiscal year, if it shall live within its income. The estimates are therefore nearly $4,000,000 more than the revenues.

The unfunded debt of the District on the 1st day of July next, it is estimated, will be $4,184,000. This debt arises from the advances that have been made from time to time during the last eight years out of the Treasury of the General Government to enable the District to carry on certain important and, in the main, necessary enterprises of a permanent nature, now largely completed. Some of these enterprises are the sewage-disposal plant, costing over $5,000,000; the filtration plant, about three and a half million dollars; the District municipal building, two and a half millions; elimination of grade and grade crossings, considerably over a million dollars; the new Union Station, a million and a half dollars; Highway Bridge and the approaches thereto, about $1,200,000; the Connecticut Avenue Bridge, about $865,000; the Anacostia River bridge, $469,000; the Massachusetts Avenue Bridge, $250,000 in round numbers; the Piney Branch bridge, $50,000; and for tuberculosis hospital, $205,000. These aggregate, in round numbers, seventeen and a quarter millions of dollars.

In addition to this unfunded debt there is a funded debt, authorized in 1874, to run, by the issue of bonds, fifty years. On the 1st of July, 1878, that debt was $22,106,000. Last year on the 1st of July the unfunded debt was $10,117,000. So that there remains to be paid in the next fifteen years as much of the funded debt, less $2,000,000, as has been paid in the last thirty years. This funded debt carries a rate of interest of 3.65 per cent, the unfunded debt a rate of 2 per cent. The law requires that, beginning with July 1 next, the unfunded debt shall be paid, the whole of it, in the ensuing five years. Now, there are three methods, possibly four, by which the present financial condition in which the District finds itself may be provided for. One is to issue another series of long-time bonds or to continue indefinitely to receive advances from the National Treasury equal to the amount expended over the current revenues. This, in the main, is the proposition of the District Commissioners, supported to a considerable extent by the business men of the city and several civic associations in different parts of the District.

Mr. DOUGLAS. Which proposition is supported by the District Commissioners and others? Where they rely upon the General Government?

Mr. GARDNER of Michigan. One is the alternative of two others. To create a new bonded debt, or to continue as now to have advances made out of the National Treasury to make up any deficit in the revenues provided. Another method of meeting the situation is to raise the rate of taxation or the rate of valuation on real property, on which the rate of taxation is 1½ per cent on all real and personal property in the District of Columbia, and that at two-thirds of its true value.

I think it may be stated, on the authority of a statistician who knows local conditions, that the real assessed valuation today does not exceed on an average 45 per cent on the real estate, judging from the assessed valuations and what the property sold for where sales take place.

Now, as a matter of fact, the rate of taxation is less in the city of Washington than in any other city of like size and like privileges in the United States.

Mr. STAFFORD. Will the gentleman permit me right there? Is that one of the reasons why so many wealthy people are taking up their domiciles here, in order to escape the taxation that they would have to pay at their real residences in their States?

Mr. GARDNER of Michigan. I will come to that in a moment. I know it is not safe as a basis of comparison to take either the rate of taxation or the assessed valuation to determine the relative rate of taxation between different municipalities, but there is a way that is fairly accurate and just, and that is to determine by the per capita tax raised in the several cities for municipal expenses. It should be borne in mind that the District of Columbia is not only a municipality, but in a sense it is a state government, in another sense a county government, and in another sense a municipal government, all three in one. Now, in nine cities that may be classed with this capital city, all but two cost more per capita for the conduct of the municipal business alone than does the city of Washington for all three of these combined. So well is this understood that certain persons living in the city of Washington have for obvious reasons advertised and sent broadcast over the United States circulars inviting citizens of other States to come here and live, not only on account of the desirability of living in the capital, but because of the low taxation.

Mr. GOULDEN. What is the assessed valuation of the city of Washington?

Mr. GARDNER of Michigan. I have not the figures in mind. I will ask the gentleman from Texas [Mr. BURLESON] to answer that later.

Mr. GOULDEN. I know it is very low indeed, but I wanted to know just what it was.

Mr. GARDNER of Michigan. The assessed valuation is two-thirds of the true value. Does the gentleman mean the aggregate?

Mr. GOULDEN. I do mean the aggregate.

Mr. MANN. That is what the law says.

Mr. GARDNER of Michigan. The law says not less than two-thirds of the true value.

Mr. GOULDEN. And yet, in your judgment, it is only about 45 per cent?

Mr. GARDNER of Michigan. Not in my judgment, but upon the authority of one on whose judgment I rely.

Mr. GOULDEN. On information that you received?

Mr. GARDNER of Michigan. Yes.

Mr. STAFFORD. I assume that these gentlemen who send out these circulars advising of the advantageous conditions that present themselves here to the wealthy classes for residential purposes, so as to escape a higher rate of taxation in their homes, are interested in the stimulation of real-estate values.

Mr. GARDNER of Michigan. Naturally.

Mr. DOUGLAS. Will the gentleman be courteous enough to yield to all of us for information on this interesting subject?

Mr. GARDNER of Michigan. Certainly.

Mr. DOUGLAS. What effort is made in the city of Washington to secure returns of the personal property which you say is taxed at a certain rate here? Is it not true that a very large part of the personal property owned by the citizens entirely escapes taxation, and is not that advertised, and is not that one of the reasons why so many men of large means come here to live, to escape taxation entirely on their personal property?

Mr. GARDNER of Michigan. I will say to the gentleman, in the first place, that household goods to the value of $1,000 are entirely exempt from taxation. In relation to the other I would not want to state on my own authority definitely. Every man can make his own inquiry. I presume every one of us knows men who have come here to this city who have given up their residence in their home States, as is believed in those States, for the purpose of avoiding taxation. I do not say it is so, but it is common rumor in our respective localities or districts.

Now, Mr. Chairman, to come back, it will be easy, therefore, if you lift the valuation on the one hand, so that, as in New York and Boston, the rate is fixed at 100 per cent of the true value of the real estate, to increase the revenues.

I think I may say in behalf of the committee and Congress that if the District of Columbia will increase its revenues by an addition to the existing two-thirds, Congress will meet the result, dollar for dollar, and so take care not only of the current expenses, but within reasonable limits the projects of a permanent nature that may be undertaken and carried on.

Mr. DAVIS. Will the gentleman yield?

Mr. GARDNER of Michigan. Certainly.

Mr. DAVIS. Is that species of personal property known as "money, bonds, mortgages, and other securities" taxed at all in the District of Columbia?

Mr. GARDNER of Michigan. Yes; supposed to be where it can be gotten at.

Mr. BURLESON. The gentleman from Michigan is mistaken. Money, notes, mortgages, stocks, bonds, and household effects under $1,000 are not taxable at all.

Mr. DAVIS. That was my understanding, and that was the reason that has been given to me heretofore why many wealthy men come here for the purpose of escaping personal-property taxation. Will the gentleman from Michigan yield for a further question?

Mr. GARDNER of Michigan. Surely.

Mr. DAVIS. How long has it been since articles known as "heirlooms," diamonds, and so forth, have been taxed at all? Is it not a fact that it is only within the last two or three years that articles known as diamonds and expensive bric-a-brac, paintings, and costly furnishings have been taxed at all, but were exempt under the title of "heirlooms?"

Mr. GARDNER of Michigan. I think that is true. I may say that there has been, as I have been led to believe, an insistent and persistent effort to increase the amount of taxes to be raised upon personal property.

Mr. DAVIS. Is it not a fact that under the present system of taxation within the District property of that kind is more exempt from taxation than in any other city of its size in the United States?

Mr. GARDNER of Michigan. It may be so. Allow me to say that I have the figures as submitted by the auditor and assessor and collector of taxes. The realty current taxes are $4,300,000. The personal current taxes are $900,000.

Mr. STAFFORD. Will the gentleman yield?

Mr. GARDNER of Michigan. I will.

Mr. STAFFORD. In view of the persistent effort which the gentleman speaks of, has there been any effort by the committee to include bonds and other like securities on the personal-property tax roll?

Mr. GARDNER of Michigan. No, sir; I think that would not come within the province of the Committee on Appropriations.

Mr. STAFFORD. You propose to increase the taxable limit of real estate, but do not suggest anything about bringing in the bonds and stocks, mortgages, and so forth.

Mr. GARDNER of Michigan. The law provides that the taxes shall not be less than two-thirds. There is no change in that law.

Now, Mr. Chairman, a third way out of this difficulty is to follow the law, pure and simple. The law says that the Commissioners of the District of Columbia shall transmit estimates to the Congress, approved by the Secretary of the Treasury; and I may say in passing that since I have been a member of this committee the Secretary of the Treasury prior to the present one has uniformly reduced the estimates of the commissioners. The present Secretary, at the request of the commissioners, submitted the estimates as they were presented to him. Now, what is the law? In the organic act it says:

> That to the extent to which Congress shall approve said estimates the Congress shall appropriate the amount at 50 per centum thereof, and the remaining 50 per centum of such approved estimates shall be levied and assessed upon the taxable property and privileges in said District other than the property of the United States and the District of Columbia.

That seems to me to be clear in this, that Congress intended under that provision that no unfunded debt should be created, by these words, "the remaining 50 per centum of such approved estimates."

Now, the commissioners estimate this year for $16,000,000, in round numbers. If Congress shall approve these estimates to the extent of $16,000,000, the law requires that there shall be levied upon the real and personal property of the District an amount to cover the $8,000,000 for its share, less that which is derived from special privileges; so that it is up to the commissioners. They make the estimates, and, as the Congress shall approve, the law requires that the District shall pay 50 per cent of the amount approved and the United States the remainder. If that were done, and, I may say, if the commissioners were fairly conservative, we would have plenty of money to meet the current needs of the District and provide within reasonable limits for improvements of a permanent nature.

Mr. DAVIS. Mr. Chairman, I judge from the statement of the gentleman from Michigan that the financial condition of the District of Columbia is now and for some years has been somewhat embarrassed, owing to the fact that the revenues have not been equal to the expenditures.

I would like to suggest, not only to the gentleman, but to certain members of the District Committee present, who are the real legislative body, Would it not be wise or would it not be proper that the real estate of the city be taxed to at least a moderate extent for the improvement of streets and sidewalks along the adjoining private property? And I would like to ask the gentleman, If at the present time private property is not virtually exempt from expense for any improvements thereto by way of construction of streets, alleys, or sidewalks in front of and adjoining the property?

Mr. GARDNER of Michigan. To a large extent that is true.

Mr. DAVIS. Is it not true that a real estate owner where a street is located and to be established under an act reported by the District Committee—that the expenses dependent upon the original location and condemnation of the property is so distributed that the property bears a certain proportion of that expense, but when it comes to improving the street otherwise, asphalting it, putting down sidewalks, planting trees, or possibly sewerage, the individual pays no expense whatever, but it is paid out of the joint revenue as comprised in the amount received from the Federal Treasury and the taxation of District property?

Does not the gentleman think that that is a bad system, and does he not know that there is not any other city in the United States where private property is thus improved and enhanced in value without one dollar of expense to the property? And, I will continue and the gentleman may answer all the questions together: Is it not another reason why wealthy men come here and invest in real estate and obtain opening of streets through and adjoining their property, in order that the Government and the District of Columbia, out of the joint revenues, may improve the property and thus increase the value to the owners?

Mr. GARDNER of Michigan. Mr. Chairman, answering the question of fact, I would state that, as I understand it, the gentleman is correct; but we have had some discussion here lately as to challenging the motives of men——

Mr. DAVIS. Excuse me, but I do not wish to challenge the motive of anyone. But does not the gentleman think that if that matter was legislated upon, and put in what I know the gentleman would consider a proper condition, it would do away with this discrepancy, as it were, between the revenues of the District and the expense? In other words, that the burden would be lightened upon the taxpayer and upon the Federal Treasury, and the real beneficiary would be called upon to respond, thus equalizing the revenues with the expenditures?

Mr. GARDNER of Michigan. Mr. Chairman, I know of no reason why the gentleman living in his town, or I living in mine, or any other gentleman living in his, should be compelled either to pay for the benefits to abutting property, along the line of his suggestions, and then by removing to Washington escape all those and have the half of such improvements paid out of the General Government, of which every taxpayer in the country has to meet his proportionate share. If the gentleman's idea was adopted and put in operation, it would largely reduce the annual budget.

Mr. COLE. How is railroad property in the District of Columbia rated for taxation?

Mr. GARDNER of Michigan. The street railway, I think, pays 4 per cent on the gross receipts.

Mr. BURLESON. There is 4 per cent on the gross receipts of the street railway.

Mr. GARDNER of Michigan. As to steam railways, I can not tell.

Mr. COLE. Is there any excise tax on the steam railways?

Mr. GARDNER of Michigan. I think not.

Mr. GOULDEN. Who is responsible for this state of affairs spoken of by the gentleman from Minnesota [Mr. DAVIS]?

Mr. GARDNER of Michigan. The Congress of the United States.

Mr. GOULDEN. What particular committee of the Congress?

Mr. GARDNER of Michigan. Certainly not the Committee on Appropriations, because we do not make the law. I am simply calling attention to these things this morning because as a committee we are compelled to confront the conditions in which we find ourselves and to act accordingly in making the appropriations.

Mr. GOULDEN. It is a most astonishing condition. I have never heard of it in any other city, that the abutting property paid nothing for the improvement—cutting through, grading, and macadamizing, and so forth.

Mr. BURLESON. Oh, that is not quite true.

Mr. GOULDEN. Did I not understand the gentleman from Minnesota correctly?

Mr. DAVIS. That is correct, except in this: That when the street is originally located under the bill emanating from the

District Committee, the property then pays a proportionate share for the taking of the property and in the condemnation proceedings.

Mr. MANN. Pays all of it.

Mr. GOULDEN. But not for grading and paving and improving, and so forth?

Mr. DAVIS. None whatever.

Mr. MANN. In the gentleman's own city it is only paid the first time, while in my city we pay for it each time it is improved.

Mr. GOULDEN. Yes.

Mr. MANN. We pay for it every time.

Mr. GOULDEN. If the streets are dug up after permanent improvement by the city, who then pays for that being dug up, in order that gas or water pipes, we will say, may be put in?

Mr. GARDNER of Michigan. The corporation in charge, and here is a specific illustration: Between the Capitol and the Library of Congress the gentleman will remember that the street was rendered impassable by the tunneling under to reach the Union Station. The railroads, as I understand it, replaced that street in proper condition. I refer now to the steam railroads. They did it without cost to the District or the General Government.

Now, I have not been there recently, but since I came it has been in an almost impassable condition, made so by the street railways laying tracks along there where there had not been any before, they in turn meeting all the expenses of that change.

Mr. GOULDEN. I alluded to private property. Say I own a house on Connecticut avenue, and I go there and put in water or gas pipes. Who is made to restore that street to its original normal condition, the property owner who has the benefit of it or the General Government and the District combined?

Mr. MANN. The property owner, theoretically, who gets the permit. I would like to suggest, if I may in the gentleman's time, this reason in reference to the city of Washington, D. C., paying the entire cost out of the appropriations which are made, and that is on the theory that it is manifestly out of the question in the District of Columbia to make special assessments against government property, because the Government owns so much property. It is out of the question to improve streets of Washington by special assessments without assessing the Government's property, and that is part of the original agreement between the District and the Government.

Mr. GOULDEN. I will say I had reference to long lines of streets laid out in every direction in which there was no government property at all. I understand it is very often the case they do not need the improvements, and they do not have to expend the money unless they desire to do so.

Mr. DAVIS. I do not wish to interrupt the gentleman, but this is a District matter, and any information I can obtain I would like to have along this line. Another idea suggested by the gentleman from Illinois is, he speaks about the Government owning such a vast amount of property in the District. I have heard it stated that the Government should pay one-half of the expense of maintaining this city because they own one-half or more property. I challenge that statement, and say that the reason given or the figures given to me when I was investigating that matter to confirm their statement that the Federal Government owns one-half of the property is made up of this: In this city, when a street is located by act of Congress the fee of the street is vested in the Government, contrary to what is the case in other cities; so that when a street is extended, the fee of the street at once becomes the property of the Government. The streets thus being included in the amount of property owned by the Government, it is thus claimed that one-half of all real estate of the District is owned by the Government.

Mr. MANN. Streets and the parks.

Mr. DAVIS. Yes. Of course the parks are for the benefit of Members of Congress as well as the residents of the city, but it is unequal. Public property of that kind, including the surface of the street, is figured in and charged to the government ownership, so when it comes to the ownership of the property, aside from streets and parks, my contention is that the private ownership here far exceeds the government ownership.

Mr. GARDNER of Michigan. Yes; the surface of the streets, alleys, parks, and so forth, makes 51 per cent of the entire surface in the city, and that is one of the reasons alleged for liberality on the part of the General Government. Now, Mr. Chairman, I want to call attention to this phase of the financial condition of the District. Under the law, the District is compelled to pay $975,000 annually on the bonded debt. The net decrease of the debt of the city, funded and unfunded, last year was about $128,000. In other words, the excess of the expenditures, interest on the unfunded debt added to the funded debt, was enough almost to take up the entire payment of the funded debt, and if the estimates are allowed to stand this year you will add nearly $4,000,000 to the unfunded debt and bring it to within $2,000,000 of the funded debt, the interest on the two now aggregating nearly half a million dollars a year. There is one other method that has been suggested—personally I am frank to say I do not fall in with it, but it is made by a very prominent resident and a property owner and taxpayer of this city—namely, that the Government shall increase its per centum to the maximum of, say, 75 per cent of the entire expenses of the District of Columbia for current and extraordinary improvements.

Mr. DAVIS. It ought to go the other way, and the federal expense decreased.

Mr. SABATH. Should it not go the other way?

Mr. GARDNER of Michigan. I am simply giving you the opinion of an intelligent gentleman, a taxpayer, and a long-time resident of the city, to meet the emergency we are in. My own judgment is to raise the rate of taxation or increase the valuation. If you increase the valuation and tax it at one and one-half on a hundred per cent of its true value, we will not be troubled, with any reasonable economy, with a debt for current and extraordinary expenses. And yet, with that advance, the citizens living in Washington City and the District of Columbia will pay less taxes than in your city or mine—state, county, and national taxes combined. I think I can make that statement without any fear of its being controverted.

Mr. FORNES. May I interrupt the gentleman? What is the rate at present?

Mr. GARDNER of Michigan. The rate is 1½ per cent on two-thirds of the true value of the real estate.

Mr. FORNES. Then it follows that if you assessed at full market value the citizens of Washington would pay a higher proportion of taxes, because of increased assessment, whereas the government property, not being assessed at all, would be relieved of that much taxation?

Mr. GARDNER of Michigan. No; the Government under the law would meet dollar for dollar the amount that the District raised.

Mr. FORNES. Yes. Suppose you had $12,000 to raise?

Mr. GARDNER of Michigan. Put it twelve millions.

Mr. FORNES. Well, any figure.

Mr. GARDNER of Michigan. That is about the figure.

Mr. FORNES. And the present rate of taxation, property being assessed at two-thirds, so to say, of its market value——

Mr. GARDNER of Michigan. No; not its market value. It has been stated that at its market value it was assessed at about 45 per cent.

Mr. FORNES. Only 45 per cent? Suppose, then, that you double that assessment and the city would pay, so to say, upon double the assessment; would that not necessarily make the taxation against the Government less?

Mr. GARDNER of Michigan. No; not under the law.

Mr. DAVIS. It would increase it.

Mr. GARDNER of Michigan. It would increase it. I read from the organic act some time ago.

Mr. FORNES. You have to pay dollar for dollar. If, as you say, it is about $16,000,000——

Mr. GARDNER of Michigan. The debt is about $14,000,000 now.

Mr. FORNES. I thought you stated $16,600,000.

Mr. GARDNER of Michigan. Those were the estimates for the next fiscal year.

Mr. FORNES. Therefore, if you increase the assessment you either can reduce the rate, or by reducing the rate only a small percentage, of course, the revenue will be larger. The revenue being larger from the real estate in the city, I can not understand why, if the city bears its full share of the cost of government, the rate against the Government should not be less.

Mr. GARDNER of Michigan. I will read to the gentleman, and he will see at once. The matter was gone over when he was not in the Chamber:

> The Commissioners of the District of Columbia shall make estimates which, when approved by the Secretary of the Treasury, shall be transmitted to the Congress.

Now, section 16 provides:

> That to the extent to which Congress shall approve of said estimates, Congress shall appropriate the amount of 50 per cent thereof, and the remaining 50 per cent of such approved estimates shall be levied and assessed upon the taxable property and privileges in said District other than the property of the United States and of the District of Columbia.

Mr. FORNES. I understand. Now, that which is paid by the Government is paid by the country at large. It is charged to the citizens of the country, who are paying a taxation—and all this money which is paid by the Government comes from taxation. Is it fair for the city of Chicago or the city of New

York or the city of Philadelphia or any other city which is paying taxation upon the market value of the property, as it is called, to be offset by 45 per cent of the market value in the District of Columbia?

Mr. GARDNER of Michigan. Well, that is a matter that is up to the Congress. The Congress has already acted. It is in the law, and there is no way but for us to follow it until the law is changed.

Mr. FORNES. Then, is it not justly due to the people that Congress should so adjust the assessment in this District that it will correspond with the assessment generally throughout the country?

Mr. MANN. That would only increase our own expenditure.

Mr. GOULDEN. The gentleman himself is a Member of Congress, and therefore, I believe, equally capable.

Mr. GARDNER of Michigan. Mr. Chairman, in conclusion I want to say that the committee, facing this financial condition, not only now, but in the near future—for there are projects that have already been recommended, definitely and indefinitely, that will require a number of millions of dollars to carry out—I say the committee, facing this condition of things, felt that they ought to frame a bill strictly in accordance with the law. They have endeavored that no important interest should really suffer by the present bill, and at the same time have provided for a material payment upon the unfunded debt on the 1st of next July.

Mr. SABATH. What is the unfunded debt?

Mr. GARDNER of Michigan. It will be $4,184,000 on the 1st of July.

Mr. BURLESON. Mr. Chairman, I will occupy the attention of the committee only for a moment for the purpose of supplementing the admirable statement made by the gentleman from Michigan with one suggestion: Since 1901, from year to year, Congress has been advancing to the District government out of the general revenues certain sums of money to meet the current expenses of the District. These advances now aggregate $3,650,563.06. From the 1st of the coming July, under the law, this amount, which is part of the unfunded debt of the District of Columbia, must be paid within the next succeeding five years. Now, this condition confronts Congress: Either it must authorize an increase of the bonded indebtedness of the District of Columbia, or to meet the growing necessities of the District of Columbia there must be bills reported increasing the tax rate, or requiring the people of the city of Washington to assess their property nearer its real value.

Mr. DAVIS. Or decrease the budget along the line of expenditures which should be borne upon private property.

Mr. BURLESON. I do not think, Mr. Chairman, it is possible to decrease the budget. What the budget carries at this time is what is absolutely necessary to properly conduct the affairs of the District of Columbia.

Mr. DAVIS. Will the gentleman permit another question?

Mr. BURLESON. Certainly.

Mr. DAVIS. Is there not contained in nearly every appropriation bill—I have not examined this one—appropriations of several hundred thousand dollars for the improvement of streets that comprise part of this budget?

Mr. BURLESON. Certainly.

Mr. DAVIS. Now, if the District Committee or Congress shall change that system it would reduce the budget quite an extent?

Mr. BURLESON. Oh, certainly. But that would require the enactment of law, with which the Appropriation Committee has nothing to do except to vote as Members of Congress on such bills when brought before the House by the District Committee.

Mr. DAVIS. I understand that.

Mr. BURLESON. Now, as I was saying, Mr. Chairman, the Committee on Appropriations have in mind to carry out the law as it is, and require the District of Columbia to repay its unfunded indebtedness within five years; and if the District of Columbia budget is to be increased to meet extraordinary expenses or any other character of expenses, there must either be an increase in the tax rate and assessed values, an increase of the funded indebtedness of the District of Columbia, or an increase of the bonded indebtedness.

Mr. GOULDEN. Will the gentleman permit me to ask him one question?

Mr. BURLESON. Certainly.

Mr. GOULDEN. I hope the gentleman will have the kindness to answer a question in regard to the assessment value for taxation purposes referred to by the chairman of the subcommittee.

Mr. BURLESON. I am unable to state the aggregate assessed property—of real property—in the District.

Mr. GOULDEN. Can you approximate it?

Mr. BURLESON. I can tell you the amount collected on real estate in the way of taxes last year. There was collected from real property within the District of Columbia, $3,400,000.

Mr. SABATH. How much on personal property?

Mr. BURLESON. Nine hundred thousand dollars.

The CHAIRMAN. The time for general debate under the order of the House having expired, the Clerk will report the bill for amendments.

The Clerk read as follows:

The Commissioners of the District of Columbia are hereby authorized and directed, from time to time, to prescribe a schedule of fees to be paid for permits, certificates, and transcripts of records issued by the inspector of buildings of the District of Columbia, for the erection, alteration, repair, or removal of buildings and their appurtenances, and for the location of certain establishments for which permits are now or hereafter may be required under the building regulations of the District of Columbia, said fees to cover the cost and expense of the issuance of said permits and certificates and of the inspection of the work done under said permits; said schedule shall be printed and conspicuously displayed in the office of said inspector of buildings; said fees shall be paid to the collector of taxes of the District of Columbia and shall be deposited by him in the Treasury of the United States to the credit of the revenues of the District of Columbia.

Mr. MANN. Mr. Chairman, I reserve a point of order on the paragraph. I notice that this proposition, which looks to be eminently proper in intent, provides that the fees shall be paid into the Treasury to the credit wholly of the District of Columbia. In other words, as I understand it—I shall be very glad to be corrected if I am in error—the Government pays its half of the expenses of running this office. These fees are paid in for the purpose of covering that expense, but when it comes to crediting the fees, they are credited wholly to the District of Columbia revenues.

Mr. GARDNER of Michigan. Mr. Chairman, at the present time those who erect buildings in the District of Columbia pay simply for doing the clerical work in connection with the permits. It is now proposed that those making such improvements here in the city shall pay, in addition to the clerical work, substantially enough to cover the cost of inspection in all its departments; and the improvement being here in the District of Columbia, in its real estate, the committee recommend that the fees collected should be credited to the District revenues. Personally I am not particular whether it shall go into the revenues of the District or one-half into the District revenues and one-half into the Treasury of the United States.

Mr. MANN. Here is the point: That the revision itself undertakes to collect enough money to cover the cost and expense of the issuance of permits and certificates, and the inspection of the work done under the permits. Now, all of that service is paid for out of the appropriation, one-half being contributed by the Government out of the General Treasury; but, although we collect this money for the purpose of equaling this expense, we do not reimburse the General Treasury for any of its expense, but turn it over wholly to the District of Columbia, and that is such an unfair proposition that I do not think the gentleman will contend for it.

Mr. GARDNER of Michigan. If the gentleman will make his amendment, I will accept it.

Mr. MANN. I have no amendment prepared.

Mr. GARDNER of Michigan. This is the uniform practice in the District. It would be a departure to do otherwise.

Mr. MANN. I think the gentleman is mistaken. That used to be the uniform custom, but I called the attention of the District subcommittee of the Committee on Appropriations to this sort of a scheme that was in the appropriation bill in a number of places before, and I notice that they have eliminated it from every other place in the bill except this, and I suspect this crept in by inadvertence.

Mr. GARDNER of Michigan. The taxes on saloons and other special privileges are all given to the District of Columbia.

Mr. MANN. That is a different proposition. Here is a proposition to cover the expense of inspection.

Mr. GARDNER of Michigan. The fines from the police court all go into the District treasury.

Mr. MANN. Oh, yes; that is quite a different proposition.

Mr. GARDNER of Michigan. The Government pays half the cost of conducting these courts, but the police court gets the benefit of all the fines.

Mr. MANN. Yes; but that is quite a different proposition. Here is a building to be constructed. There is a certain expense about the issuing of the permits and a certain expense about the inspection certificates. Now, we provide for the officials who issue the permits and who do the inspection work. We pay for the expense of that out of the General Treasury. Then we provide that the man who obtains a permit shall pay in enough money to cover the cost of doing this work, and we think we have got it fixed then and paid back. But then we find, according to the bill, that this money is paid over to the

credit of the District, and so the District makes a profit, because the District only pays one-half the expense, and the General Government pays the other half. It seems to me the proposition is so utterly unfair that nobody can contend for it.

Mr. GARDNER of Michigan. Has the gentleman finished?

Mr. MANN. I have a point of order pending.

Mr. GARDNER of Michigan. I may say to the gentleman that not only the police-court fines, but the supreme-court fines, the liquor licenses, the plumbing licenses, the insurance licenses, the electrical permits, the building permits, the engineer's licenses, the fees from tax certificates, the railing permits, the water permits, the sewer and gas permits, the inspector of gas and meter fees, the dog-pound fees, the justice-court fees, the health-department permits, the surveyor's fees, the fees of the sealer of weights and measures, the penalty and interest on taxes; all these are deposited wholly to the credit of the fund of the District of Columbia. So that this would be the exception and not the rule. The fees now under this very language are all deposited in the treasury of the District of Columbia.

Mr. MANN. Then it is no advantage to the General Treasury to have this provision go into the bill?

Mr. GARDNER of Michigan. Yes; by so much as the one-half shall reduce the whole.

Mr. MANN. The one-half will not reduce anything, it only increases the expense to the General Treasury. None of this gets back into the General Treasury.

Mr. GARDNER of Michigan. It helps to pay the inspectors——

Mr. MANN. Not at all; it does not.

Mr. GARDNER of Michigan (continuing). Out of the District treasury.

Mr. MANN. It does not help to pay them. We appropriate directly for them out of the General Treasury.

Mr. GARDNER of Michigan. Oh, no.

Mr. MANN. Well, will the gentleman call my attention to a provision that the inspector shall be paid wholly out of the funds of the District of Columbia——

Mr. GARDNER of Michigan. I do not mean that.

Mr. FOSTER of Vermont. He means that it helps pay the District's one-half.

Mr. MANN. That swells the amount we have to pay out of the General Treasury.

Mr. GARDNER of Michigan. It still remains that this increases the resources which the District so much needs, and is in perfect harmony with the previous action of the District along that line.

Mr. MANN. The gentleman may be able to help me find something that I am looking for in the bill. There is a provision in the bill itself in reference to one lot of fees that shall be reimbursed to the fund out of which the service is paid.

Mr. GARDNER of Michigan. I do not recollect it at this moment.

Mr. MANN. Well, I shall be compelled to insist on the point of order.

Mr. GARDNER of Michigan. Will not the gentleman from Illinois withdraw his point of order or let it go over?

Mr. MANN. I am willing to let it go over, but not to withdraw it. The gentleman can ask unanimous consent that this be passed over without prejudice.

Mr. BOWERS. Would the gentleman withdraw the point of order if the provision was so amended that the deposit in the Treasury should be one-half to the credit of the United States and one-half to the credit of the District of Columbia?

Mr. MANN. Yes; but I think it should be so amended that the money would be for the services rendered.

Mr. GARDNER of Michigan. That is the purpose of it, that it shall furnish a fund that shall meet every expense of inspection.

Mr. MANN. But you do not do it by this provision.

Mr. GARDNER of Michigan. I have no objection to what the gentleman seeks to do. How would this do: Say that one-half of the receipts shall be deposited with the treasurer of the District of Columbia and one-half in the Treasury of the United States?

Mr. MANN. That would suit me, although I think it would be better to pass over the provision now. I ask unanimous consent, Mr. Chairman, that this paragraph may be passed for the present without prejudice.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that this paragraph may be passed for the present without prejudice. Is there objection? [After a pause.] The Chair hears no objection.

The Clerk read as follows:

For assessor's office: For assessor, $3,500, and $500 additional as chairman of the excise and personal tax boards; 2 assistant assessors, at $2,000 each; 2 clerks, at $1,400 each; clerk, arrears division, $1,400; 4 clerks, at $1,200 each; draftsman, $1,200; 4 clerks, at $1,000 each; assistant or clerk, $900; clerk in charge of records, $1,000; 2 clerks, at $900 each; license clerk, $1,200; 2 clerks, at $1,000 each; inspector of licenses, $1,200; assistant inspector of licenses, $1,000; messenger, $600; 3 assistant assessors, at $3,000 each; clerk to board of assistant assessors, $1,500; messenger and driver, for board of assistant assessors, $600; clerk, $600; temporary clerk hire, $500; in all, $44,100.

Mr. NORRIS. Mr. Chairman, I move to strike out the last word for the purpose of asking a question of the chairman of the committee. How often, under the law, is property of the District of Columbia assessed?

Mr. GARDNER of Michigan. Once in three years; that is, the real estate is assessed once in three years.

Mr. NORRIS. How often is the personal property assessed?

Mr. GARDNER of Michigan. Annually.

Mr. NORRIS. Now, as to the employees mentioned here for the assessor's office, is that the regular number that is on the roll all the time? Is there any law by which, when the assessment of real estate is to take place, the clerks and employees shall be increased?

Mr. GARDNER of Michigan. There is a provision made for additional force when the assessment of real estate is to be made.

Mr. NORRIS. When was the last real estate assessment made?

Mr. BOWERS. Last year.

Mr. GARDNER of Michigan. We get the benefit of it for the first time in the ensuing fiscal year.

Mr. NORRIS. Is it not true that the force is now just as large as it was then?

Mr. GARDNER of Michigan. About the same.

Mr. NORRIS. Is the work about the same?

Mr. GARDNER of Michigan. They want an increase; they say they can not do the work with the present force.

Mr. NORRIS. Is it necessary to keep the entire force the entire three years in order to make an assessment?

Mr. BOWERS. Let me explain. Last year's bill carried with it a provision such as is carried every three years for additional clerk hire—temporary clerk hire—made necessary by the triennial assessment of real estate. That provision is left out of this bill, and it appears only when that assessment is made, and that constitutes the difference between the work which occurs annually and that which occurs only every three years.

Mr. NORRIS. That makes the proposition plain.

Mr. COX of Indiana. Mr. Chairman, I will ask the gentleman in charge of the bill, What is the excise board? What has it to do with the property of the District of Columbia?

Mr. GARDNER of Michigan. Primarily the determination of the liquor licenses.

Mr. COX of Indiana. I see this bill makes the assessor the chairman of that board.

Mr. GARDNER of Michigan. Yes; the assessors are members of that board. That is a part of their duties continuously.

Mr. COX of Indiana. Is this excise board in continuous session, or only occasionally?

Mr. GARDNER of Michigan. It is a continuing board, but not in continuous session.

Mr. COX of Indiana. How much of its time is occupied while sitting as a board?

Mr. GARDNER of Michigan. I can not say as to that, but the presumption is that there may be applications for liquor licenses at any time.

Mr. COX of Indiana. How much of the assessor's time is taken up by his being chairman of that board?

Mr. GARDNER of Michigan. It will be easy for the gentleman to see that a member of this committee, unless he has gone specifically into that thing—which is surely a question of administration which we ought to leave to the various boards, because it would produce an infinite amount of detail, much of it valueless—would be unable to answer that question; and I am very frank to say that I do not know anything about how much, and that would be true of a multitude of other matters of information and detail.

The CHAIRMAN. Without objection, the pro forma amendment will be considered as withdrawn, and the Clerk will read.

The Clerk read as follows:

For engineer's office, record division: For engineer of highways, $3,000; engineer of bridges, $2,100; superintendent of streets, $2,000; superintendent of county roads, $1,500, and $500 additional as assistant engineer in Rock Creek Park; superintendent of sewers, $3,000; inspector of asphalts and cements, $2,400 (*Provided*, That the inspector of asphalts and cements shall not receive or accept compensation of any kind from, or perform any work or render any services of a character required of him officially by the District of Columbia to, any person, firm, corporation, or municipality other than the District of Columbia); assistant inspector of asphalts and cements, $1,500; superintendent of repairs, $1,500; superintendent of trees and parkings, $1,800; assistant

superintendent of trees and parkings, $1,000; assistant engineer, $2,200; assistant engineer, $2,100; 4 assistant engineers, at $1,800 each; 1 assistant engineer, $1,600; 5 assistant engineers, at $1,500 each; 1 assistant engineer, $1,350; 1 assistant engineer, $1,200; 2 transit men, at $1,200 each; 1 transit man, $1,050; 4 rodmen, at $900 each; 8 rodmen, at $780 each; 12 chainmen, at $650 each; 2 draftsmen, at $1,350 each; 2 draftsmen, at $1,200 each; 1 draftsman, $1,050; 1 general inspector of sewers, $1,300; 1 inspector of sewers, $1,200; 1 bridge inspector, $1,200; 2 inspectors, at $1,500 each; 3 inspectors of streets, at $1,200 each; 3 inspectors, at $1,200 each; 1 inspector, $1,000; 1 inspector, $900; 12 foremen, at $1,200 each; 1 foreman, Rock Creek Park, $1,200; 3 subforemen, at $1,050 each; 1 foreman, $1,050; 10 foremen, at $900 each; 1 bridge keeper, $650; 3 bridge keepers, at $600 each; 2 inspectors of property, at $936 each; 2 property yard keepers, at $1,000 each; 1 inspector of material, $1,200; chief clerk, $1,900; clerk, $1,800; clerk, $1,600; 2 clerks, at $1,500 each; permit clerk, $1,500; assistant permit clerk, $1,000; index clerk and typewriter, $900; 2 clerks, at $1,400 each; 2 clerks, at $1,350 each; 5 clerks, at $1,200 each; 1 clerk, $1,050; 2 clerks, at $1,000 each; clerk, $900; clerk, $840; 2 clerks, at $750 each; clerk, $620; clerk, $600; 7 messengers, at $540 each; 2 skilled laborers, at $600 each; skilled laborer, $625; janitor, $720; principal steam engineer, $1,800; 3 steam engineers, at $1,200 each; 3 assistant steam engineers, at $1,050 each; 6 oilers, at $600 each; 6 firemen, at $875 each; inspector, $1,400; storekeeper, $900; superintendent of stables, $1,500; blacksmith, $975; 2 watchmen, at $630 each; 2 drivers, at $630 each; driver, $540; inspector of gas and meters, $2,000; assistant inspector of gas and meters, $840; messenger, $540; boss carpenter, $1,200; boss painter, $1,200; boss tinner, $1,200; boss plumber, $1,200; boss steam fitter, $1,200; boss grader, $1,000; municipal architect, whose duty it shall be to supervise the preparation of plans for and the construction of all municipal buildings and the repair and improvement of all buildings belonging to the District of Columbia under the direction of the engineer commissioner of the District of Columbia, $3,600; and all laws or parts of laws placing such duties upon the inspector of buildings of the District of Columbia are hereby repealed; in all, $200,062.

Mr. MACON. Mr. Chairman, I reserve the point of order against the language beginning with "municipal architect," on page 13, line 24, and ending on page 14, line 7, with the word "repealed," for the purpose of making the point of order at the proper time, if the gentleman in charge of the bill can not explain the matter satisfactorily.

Mr. MANN. Mr. Chairman, I reserve the point of order on the entire paragraph.

Mr. MACON. My point of order, the gentleman from Michigan [Mr. GARDNER] will understand, is against the creation of a new office—a municipal architect, at a salary of $3,600. Is not that a new office that is being created?

Mr. GARDNER of Michigan. Mr. Chairman, in reply to the gentleman, I would say that the inspector of buildings has, as a matter of fact, been to a very large extent the municipal architect. It is well known that there has been a great deal of criticism of him personally and of the conduct of the office. The board of education requested that there be an architect employed purely for the purpose of constructing school buildings. It is believed that a municipal architect will be able to do the duties both for the school board and the municipality at large, and release to that extent the inspector of buildings for the purpose designed in the creation of that office.

Mr. MACON. Is the work of the inspector of buildings so great that he can not attend to it. Has it outgrown him?

Mr. GARDNER of Michigan. Substantially, that is the theory advanced.

Mr. BURLESON. Mr. Chairman, I will state to the gentleman from Arkansas [Mr. MACON] that recently we have had several unfortunate accidents to buildings in course of erection in the city, which directed attention to the fact that the building inspector's force is overburdened with work, and the District Commissioners urge the creation of this new office in order that the building inspector's force might be relieved of the work to be done by this municipal architect, which is now imposed upon the inspectors under the law; and instead of increasing the inspecting force, which is adequate for ordinary purposes of inspection, we create this new office and relieve the inspector's division of the duties imposed upon it by this work to be done by the architect. It is the most economical way and satisfactory way of handling the situation.

Mr. GARDNER of Michigan. Right along the last remark of the gentleman from Arkansas, that it is the most economical way of doing it, I would say that the present method of conducting the business is to employ outside architects and pay them 3 per cent or more or less in individual cases. It is believed that if the proper officer is secured to perform the duties expected of him, it would result in a material saving. In other words, that as against employing outside architects at a per centum, he will save his salary several times in the course of the year.

Mr. MANN. Mr. Chairman, I understood the gentleman to say that the present method was to employ outside architects upon the basis of 3 per cent commission?

Mr. GARDNER of Michigan. Yes.

Mr. MANN. Is the gentleman sure about the commission? That is a very small commission for architect's services.

Mr. GARDNER of Michigan. That, I think, is about the minimum.

Mr. MANN. And I should say that 3 per cent commission would not cover the cost of preparing the plans and specifications and inspecting the work at all. I doubt whether it is done for 3 per cent, and if it be true, if the gentleman be right that it is done for 3 per cent, this will not save any money, because nobody can do this work for less than 3 per cent of the cost.

Mr. GARDNER of Michigan. Mr. Chairman, I find that either I misstated myself or that the gentleman from Illinois has misunderstood me. It is 3 per cent for the preparation of the plans, not for the supervision of the buildings after the plans are being put into execution.

Mr. MANN. Well, 3 per cent for the preparation of plans is not an exorbitant amount for architect's services. The actual work of preparing plans and specifications for a building is very great, as the gentleman will ascertain if he studies the offices of architects.

Now, who selects these architects at present?

Mr. GARDNER of Michigan. I presume the Commissioners of the District in their collective capacity.

Mr. MANN. Who has charge of the construction of school buildings in the District, the District Commissioners or the school board?

Mr. GARDNER of Michigan. The District Commissioners with the inspector of buildings in consultation with the school board.

Mr. MANN. Of course under this provision the school board would have nothing to say about it.

Mr. GARDNER of Michigan. Oh, they would be consulted, no doubt.

Mr. MANN. Why would they be consulted? They might be consulted, but they would not have to be consulted.

Mr. BURLESON. They always are consulted.

Mr. MANN. I do not know whether they are or are not, or whether they ought to be, but this provision undertakes to give absolute control over the construction of new school buildings, or the repair and improvement of all the old school buildings, or the repair and improvement of any other building, to one officer at a salary of $3,600. It can not be done if it is tried, and ought not to be, in my opinion.

Mr. BURLESON. I will say to the gentleman from Illinois that it is not the intention that this municipal architect shall supervise the construction of all school buildings, or that he shall prepare plans for all the school buildings to be erected in the District. It is contemplated that he shall do about one-half of this work. The commissioners would still employ outside architects for the larger buildings, because they do not want all the school buildings of the District of Columbia to be turned out of the same mold; they want some variety in the architectural design, and it is contemplated that outside architects shall be employed in probably, as I now recollect, 50 per cent of the school buildings to be erected in the District.

Mr. MANN. Well, I think the gentleman and I agree. Now will the gentleman explain the meaning of this language:

> Municipal architect, whose duty it shall be to supervise the preparation of plans for and the construction of all municipal buildings and the repair and improvement of all buildings belonging to the District of Columbia.

Mr. BURLESON. Well, it would seem the language read would impose upon the architect the duty of supervising all; but that was not contemplated by the committee, as I recall it, though I am not positive about it, but I think the hearings will disclose that it was intended that this official would prepare the plans of only about 50 per cent of the school buildings.

Mr. GARDNER of Michigan. If the gentleman from Texas will allow me to read from Commissioner Morrow's hearing, page 19, near the bottom of the page. He said:

> We do not intend that this man—
>
> The municipal architect—
>
> shall do all of the architectural work of the District. He will probably design half of the school buildings. Probably a quarter of the school buildings are now designed in the office of the inspector of buildings. He will simply employ architects and supervise their work.

Mr. BURLESON. That answers the question of the gentleman from Illinois. I would now like his further attention for a moment. The hearings show that outside architects are to be employed to act under the supervision of the municipal architect.

Mr. MANN. Do I understand that under this proposition, where the municipal architect is to be employed at a salary of $3,600 a year, we are still to continue to pay these outside men, which the gentleman from Michigan assured us we would not pay?

Mr. GARDNER of Michigan. Mr. Chairman, if the gentleman would have given attention instead of visiting with some neighbor——

Mr. MANN. I do not think anybody in the House can accuse the gentleman from Illinois of not giving attention.

Mr. GARDNER of Michigan (continuing). He would have been fully enlightened. Did the gentleman hear and apprehend and comprehend the statement of Major Morrow?

Mr. MANN. Yes; but I take the wording of the bill against the statement of somebody before your committee about what they mean and the statement of the gentleman from Michigan himself. The gentleman from Michigan stated the purpose of this was to have this man prepare all the plans and pay him, saving several times the salary by saving the 3 per cent commission. I stated in reply that it would cost 3 per cent to make the plans. Now, the purpose is to pay the salary and the commissions besides.

Mr. GARDNER of Michigan. I think the gentleman is a little at fault there, or else the gentleman from Michigan misspoke himself when he said "all the plans." Now, in regard to the cost. I apprehend they are paying out from 2½ to 3½ per cent for plans, averaging probably 3 per cent. Five per cent is the maximum where they do the work of designing the plans and supervising the construction.

Mr. MANN. It is an architect's usual commission.

Mr. MACON. Mr. Chairman, unless the gentleman in charge of this bill can assure me that all this 3 per cent business will be stopped, I am going to insist upon my point of order.

Mr. GARDNER of Michigan. I do not quite get the statement of the gentleman from Arkansas.

Mr. MACON. I say that unless the gentleman from Michigan [Mr. GARDNER], who is in charge of this bill, can assure me that all of this 3 per cent commission business is going to stop in connection with municipal architectural work, I am going to insist on my point of order, for I am strictly opposed to the idea of creating new offices or increasing salaries in almost every paragraph of the annual appropriation bills.

Mr. GARDNER of Michigan. Mr. Chairman, I may say, in a general way, that this bill is surprisingly free from the creation of new offices and the increasing of salaries or the reduction of salaries. Occasionally, as the exigencies have developed in the course of the hearings, some changes have been made. I am sure the gentleman from Arkansas [Mr. MACON] will not insist on the chairman of the committee pledging the committee and the Congress that the new municipal architect shall perform all the duties of that office in the way of originating all plans and the supervision of the construction of buildings. I think it entirely safe to say that with a probable appropriation of from $650,000 to $1,000,000 for school buildings alone it is not within the power, physically speaking, of any one man to do all of that work. At the same time your committee does believe that this office is in the interest of economy and efficiency both.

Mr. MANN. Did the gentleman have any hearings of the members of the school board on this item?

Mr. GARDNER of Michigan. I think there are hearings of the school board incidentally touching this, if not this year, within two or three years preceding. As I stated earlier, they want a school-board architect, pure and simple.

Mr. MANN. Under their control?

Mr. GARDNER of Michigan. Absolutely.

Mr. MANN. That is the reason they want it?

Mr. GARDNER of Michigan. Absolutely.

Mr. MANN. I undertake to say I do not know which is right, but it seems to me we ought to consider very seriously the proposition to have the construction of the school buildings solely under the control of the District Commissioners, under an architect responsible to the District Commissioners, who is not required to consult the school board about anything.

Mr. GARDNER of Michigan. I may say, Mr. Chairman, that practically members of the school board have been consulted constantly and changes have been made in accordance with their suggestions. This matter has been gone into, not only this year but other years, with a great deal of care, and this provision is a result of the best judgment of the Committee on Appropriations.

Mr. BOWERS. Will the gentleman from Arkansas yield to me now?

Mr. MACON. Certainly.

Mr. BOWERS. I am thoroughly in sympathy with the gentleman in his opposition to new offices, and I think if he will examine this bill and the bill that was reported for the maintenance of the District of Columbia last year, or if he will peruse the newspapers of this city published since this bill was reported to the House, he will be satisfied that it is characterized by the most rigid economy.

Mr. MACON. I want to say "amen" to that statement right now.

Mr. BOWERS. I do not think, therefore, that any criticism as to the creation of new offices can fairly be leveled at this bill. Now, as to the gentleman's suggestion that he will insist upon his point of order unless he can be absolutely assured that all of the "present per cent business" will be done away with, I say to him frankly that as a member of the committee and of the subcommittee that considered this bill, we can not by the creation of this office and the putting of these duties on this officer dispense with all the outside architects who are employed to make plans and do work.

Mr. MACON. Does it dispense with any appreciable number?

Mr. BOWERS. We can dispense, and will dispense, as we believe, with a great part of it, with infinitely more in amount than the salary of this officer. And it was in the interest of economy and with a view of reducing the expenses of the District that this provision was incorporated in the bill. Let me call the gentleman's attention again to what the engineer commissioner of the District, Major Morrow, had to say on that point:

We do not intend that this man shall do all the architectural work of the District.

He could not do it all.

He will probably design half of the school buildings. Probably a quarter of the school buildings are now designed in the office of the inspector of buildings.

In addition to that, I may say, he will design half of the structures needed for the municipality.

He will supervise the other work in addition to the work that he does in the preparation of the plans here. That is the most that we can get, and it seems to me it justifies the provision.

Mr. COX of Indiana. Will the gentleman allow me to ask him a question?

Mr. BOWERS. Certainly.

Mr. COX of Indiana. Suppose that this bill with the language in it becomes law; and suppose that the municipal architect insists upon his right to make all the plans for all the municipal buildings. Do you not believe it to be a fact, under authority of this bill, that he would have exclusive right to do it to the exclusion of everybody else?

Mr. BOWERS. I will say in response to that that I think the matter would be up to the Commissioners of the District. I do not think there is any right vested in the municipal architect to do all the work required by this provision. In fact, I do not believe the provision requires him to do it, and if we should require him to do so it would be fruitless, because I do not believe he could do it all; and if after one year's trial it transpires that this is not justified, that he is not doing the work we expected him to do, it would be very easy to strike out the appropriation from the next bill, and nobody would be more ready to do it than the committee which originated it.

Mr. MACON. I have not seen any appropriations of this character dropped when once they are established.

Mr. BOWERS. If you pass this bill with this provision in it and the occasion ever requires it, you will see it.

Mr. MACON. The gentleman from Mississippi may have the very best intentions on earth to do that very thing, and I believe his intentions are good, but there are others on the committee besides him, and they are in the majority. [Laughter.]

Mr. MANN. Is not this the inevitable result in all propositions of this kind, whether they be right or wrong? If this architect's office is created, he has to have plans and specifications prepared. He takes the expense of them out of the appropriation for the building. So there is no provision made for these expenses of the office.

Mr. BOWERS. That will be done on the outside.

Mr. MANN. Well, he has an office force. If the office force finish one building, will they seek an opportunity to be discharged or an opportunity for continued service?

Mr. BOWERS. I assume they could continue designing the buildings and doing the other work.

Mr. MANN. The next thing that we would find would be that he required an enlargement of that force. So that in a few years we will have an office force for the entire matter, I take it.

Mr. BOWERS. Suppose we do have such a force. Will they not be discharging the duties that will be required?

Mr. MANN. I was calling attention to the gentleman's proposition that 25 or 50 per cent of the buildings would have their plans prepared by this architect and the rest by outside architects.

Mr. BOWERS. We are informed that in many places, indeed, in a majority of the places where such an official exists, that the aid of outside architects is constantly called in; that no one man designs all the buildings that are needed, and that

it would be undesirable for one architect to design all if for no other reason because you want a variety in architecture and not the sameness of idea permeating all the buildings of a great city.

Mr. MANN. The gentleman does not believe that to be desirable?

Mr. BOWERS. No; I do not.

Mr. MANN. And yet the committee of the gentleman reports a bill to the House for the Supervising Architect of the Treasury, who constructs buildings all over the United States, and not one of the plans is prepared outside of the Supervising Architect's office.

Mr. BOWERS. The office of the Supervising Architect?

Mr. MANN. Certainly.

Mr. BOWERS. Why my understanding is that he advertises, and plans are made by architects all over the country and submitted to that office and adopted by him.

Mr. MANN. Oh, I know that once in a while that is done. The plan of the Chicago post-office was prepared by an outside architect, authorized by a special act of Congress. Once in a while they do provide by a law authorizing it, but it is not generally the case.

Mr. HARRISON. Does the gentleman believe that you can have the services of a competent architect for $3,500 a year?

Mr. BOWERS. I think the District can have the benefit of the skill that is needed to do the work in a position of this kind for that salary. He will certainly be able to make the plans for the smaller school buildings and other buildings of that kind, and if the salary is not sufficient, then the commissioners, who have recommended this provision, have woefully underestimated what the salary should be, and it will be the only case of underestimation by them which this committee has discovered.

Mr. HARRISON. Is the gentleman familiar with the work that is done by like men in other cities? In New York State we have a state architect. Is the gentleman aware of what he gets?

Mr. BOWERS. No.

Mr. HARRISON. He gets a salary, and has been known also to collect bills for service as architect. What guaranty is there that this will not occur under the provisions of this paragraph?

Mr. BOWERS. I do not believe that would be possible here. I do not believe that practice would be tolerated for an instant here.

Mr. GARRETT. Just one question.

Mr. BOWERS. I can not say what the New York practice is, but I do not think such a practice as that would be tolerated here for an instant.

Mr. HARRISON. I think this proposition opens the door for all kinds of bills and expenses in the future.

Mr. GARRETT. The gentleman from Mississippi intimates that there might be some danger of this architect drawing the designs for all the buildings in the city. Does the gentleman from Mississippi not think that there would be more danger of his not drawing any of the plans rather than all the plans?

Mr. BOWERS. I do not think he is going to overwork himself. I think he will do a fair and proper amount of work. I think he will do what he ought to do, and not more than that.

Mr. GARDNER or Michigan. I understood the gentleman from Illinois [Mr. MANN] to say that the plans for all federal buildings are made down here in the office of the Supervising Architect. Am I correct?

Mr. MANN. What the gentleman from Illinois stated was that there were cases where they had been made by outside architects, and that the law authorized it, but that as a matter of fact at present they are invariably made, as I understand, in the office of the Supervising Architect.

Mr. GARDNER of Michigan. If the gentleman means to-day, I can not say; but I do know that the plans for the last public building erected in the district that I represent were made entirely in the city of Detroit. Not only that; there is a general law authorizing the Supervising Architect to employ outside talent for preparing plans for federal buildings.

Mr. BOWERS. And they do that.

Mr. GARDNER of Michigan. The act known as the "Tarsney Act," introduced by a distinguished former Member of this House from my own State, is the law to which I refer.

Mr. MACON. Mr. Chairman, I am afraid that if this act is allowed to create this new office, it will not be more than a year or two before we will have some kind of an assistant architect established. I notice here in this bill we have an assessor to be appropriated for and then we have two assistant assessors. They are on page 6. On page 8 I notice that we have a corporation counsel whom we pay $4,500, and then we appropriate so much for a first assistant corporation counsel, so much for a second assistant corporation counsel, so much for a third assistant corporation counsel, and so on. I believe that if we allow this new office to be created here, it will only be a very short time before we shall have to pay not only $3,600 for a municipal architect, but so much for a first assistant municipal architect, so much for a second assistant architect, and so on. For fear that is the course which will be taken in connection with this matter, I will insist on my point of order and stop it at the very beginning.

Mr. GARDNER of Michigan. I hope the gentleman from Arkansas will not insist on his point of order at this moment.

Mr. MACON. I will withhold my point of order.

Mr. GARDNER of Michigan. Let me say to the gentleman that he builds up objections that may arise in the future, and cites assistants for the district attorney as examples. Why, there is not a populous county in the United States that has not its attorney and its assistant attorney, and more than one assistant where necessary. The reason for this is that it is not possible for one lawyer to be in several different courts at the same time, or to attend to all the business. Precisely so with the assessor's office. You may conjure up, if you wish, any kind of objection and defeat any proposition in that way if you choose. I am not here to say that the time may not come when this city shall have half a million or a million inhabitants, a condition of things that is not very far away, when the necessity will demand an assistant municipal architect; and when he is necessary he ought to be provided for; but "sufficient unto the day is the evil thereof." Provide for the necessities now. I say to the gentleman from Arkansas that his objections are purely speculative. The committee has gone into this proposition with the greatest care, not only at this session, but in preceding hearings, and we have given to you our very best judgment for the welfare of the city and for economy in the administration of municipal affairs. I hope the gentleman will not insist on his point of order.

Mr. MACON. Mr. Chairman, I dislike very much to object to anything that the gentleman from Michigan favors, because I believe he is very conscientious in his desire to do right, and that is all any man can do. No one ought to be asked to do more than that. The gentleman from Mississippi, I believe, purposes to do right, and I may say the same about all of the other members of the Appropriations Committee. But, sir, I want to insist that they have from time to time, since I have been a Member of this House, brought in propositions to create new offices or to increase salaries that they have stated were absolutely necessary, and I have been instrumental in having some of these increases stopped—I have been instrumental in having some of these intended offices fail of creation—and yet the affairs of the Government have gone on just as efficiently as before; so I have concluded that it is not absolutely necessary for the proper conduct of the affairs of the Government of the United States to allow every office to be created that the members of the Committee on Appropriations may have in mind or desire to have created; that it is not absolutely necessary for the proper conduct of the affairs of this great Nation to have every salary increased that the Committee on Appropriations desires to have increased.

In reply to what the gentleman from Michigan has said about assistants for nearly all officers, I want to say that I have known of some public officers who did not have assistants. I myself had the honor to serve a circuit of five large counties in my own State, and we have some criminals—I have heard it stated that Arkansas had some criminals in it, and especially in that part of it in which I happen to live, known as the "black belt," on the Mississippi River—but I did not have an assistant. So I believe it is possible for a public official to get along without assistants if he will do something himself; and, sir, I am inclined to think, from what I have heard on both sides of this question, that it is possible for this government to get along without this new office, and for that reason I am going to insist on my point of order.

The CHAIRMAN. Does the gentleman from Illinois insist on his point of order against the whole paragraph?

Mr. MANN. I would like, first, to ask the gentleman in reference to the provision in the bill, on page 10, concerning the inspector of asphalt and cement, which as it stands is subject to a point of order, although I do not feel disposed to make the point of order; but there has been so much said lately in regard to a scandal in the District that I wish the gentleman in charge of the bill, or some other member of the committee, would give us some authoritative statement on the subject.

Mr. GARDNER of Michigan. The gentleman says page 10 of the bill. We have passed that.

Mr. MANN. I was asking about this so-called scandal, if it be one. I do not know that it is a scandal. But it concerns the

measurement of asphalt and cement under the jurisdiction of this inspector. What information can the gentleman give us?

Mr. GARDNER of Michigan. I think that has nothing to do with this provision.

Mr. MANN. I am not at all certain that it has; but whether it has or not, this provision came into the bill about the time that scandal commenced.

Mr. GARDNER of Michigan. Allow me to say that this provision has been in the bill for some time.

Mr. MANN. Several years.

Mr. GARDNER of Michigan. It originated in this way: It was thought that the inspector was not only serving the Government of the United States in his office as inspector, but serving himself in giving his opinion in regard to certain properties, and accompanying that opinion, either authoritatively or suggestively, as a Government guaranty, that it was what it purported to be; and this was put in to correct that. It had nothing whatever to do with the so-called scandal with reference to resurfacing asphalt.

Mr. MANN. I do not know whether it had or not.

Mr. GARDNER of Michigan. I say it had not when it was put in.

Mr. MANN. Oh, I understand that.

Mr. GARDNER of Michigan. So far as I know, it had not then and has not now.

Mr. MANN. Is the scandal the result of this provision in the bill?

Mr. GARDNER of Michigan. Not in the least, as I understand it.

Mr. MANN. Well, the gentleman has had the District Commissioners before the committee and this subject must have been referred to. It is claimed that the District lost $50,000 or $60,000 by false measurement. I do not wish to obtain any information which is secret or which the commissioners intend to use on the trial, but if it is public I think we ought to know about it.

Mr. GARDNER of Michigan. I will say that to which the gentleman refers became known to the committee and to the country after this bill was reported and had gone to the printer.

Mr. BURLESON. I will state that the gentleman from New York [Mr. FITZGERALD] is the author of that provision.

Mr. MANN. I understand that; I talked with the gentleman from New York before it was put in the bill. I was disposed to make a point of order then, but upon his representation of the need of it I did not do it, because of the confidence I have in the judgment of the gentleman from New York.

Mr. FITZGERALD. Mr. Chairman, the inspector of asphalt and cement in this city had a laboratory provided by the Government and was doing this work for the District. It was ascertained that he was also being held out as a federal expert and going about the country doing this work in other cities. The committee thought that it was improper that a man in the employ of the municipal government should be held out as a United States expert and going about engaging in private enterprise. I thought so then, and I think so now. I think in work of that character it is improper that an employee of the municipality or of the District, provided with a laboratory by the Government, should be advertising as an expert of the United States Government and going about the country doing similar work for individual corporations, either public or private.

Mr. MANN. As I understand, and as I remarked before, I have very great confidence in the judgment of the gentleman from New York [Mr. FITZGERALD], but he put this provision in to head off a particular individual at the time.

Mr. FITZGERALD. It happened that at that time the then inspector was doing that work.

Mr. MANN. He was the same inspector who at that time agreed upon the measurements under which the District now claims it has been defrauded out of fifty or sixty or seventy thousand dollars.

Mr. FITZGERALD. I know nothing about that except what I saw in the public press, and that was to the effect that the boxes, or whatever they are, in which they measure asphalt were found to contain more or less, whichever way it would work out, than it was supposed, and that the District was paying for more than it was really getting. I have understood from what I have seen in the public press that it is claimed the contractor has collected over $70,000 in excess of the amount he would have been entitled to if the measurements had been correct.

Mr. MANN. Very well. Mr. Chairman, I understand the gentleman from Arkansas insists on his point of order, and I shall withdraw the point of order as against the whole paragraph.

The CHAIRMAN. Very well. The Chair will then consider the point of order of the gentleman from Arkansas. We have a rule, with which the committee is familiar, against changing existing law in an appropriation bill or any amendment thereto. This bill, in the 5th line, on page 14, provides for the repeal of all laws or parts of laws doing certain things. Of course anything which curtails something by cutting its head clear off changes it, and the point of order is sustained. The Chair will ask how far the point of order extends?

Mr. MACON. It commences with the words "municipal architect," on line 24, page 13, and extends down until the word "repealed," in line 7.

The CHAIRMAN. The point of order is sustained. Without objection, the total will be changed to accord with the facts.

Mr. MACON. Mr. Chairman, I move to strike out the last word. Without any intention of throwing bouquets, I simply desire to congratulate the gentlemen who compose the subcommittee on appropriations which brought in this bill for its cleanness. I also desire to congratulate the country, a small part of which I represent, upon having such a subcommittee, for they have brought in an appropriation bill consisting of 104 pages, and I have gone through it, beginning with the first line and ending with the last, and notwithstanding I have a slight disposition to make points of order now and then when I find anything in an appropriation bill that I do not think ought to be in it, I must confess that the point I have just made, and which has been sustained, is the only one, in my humble judgment, to be found within the pages of this measure that ought to be made against it.

The CHAIRMAN. The Clerk will read.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. WANGER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, its reading clerk, announced that the Senate had insisted upon its amendments to the bill (H. R. 16954) to provide for the Thirteenth and subsequent decennial censuses, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. LONG, Mr. HALE, and Mr. MCENERY as the conferees on the part of the Senate.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

Department of insurance: For superintendent of insurance, $3,500; examiner, $1,500; statistician, $1,500; clerk, $1,000; stenographer, $720; temporary clerk hire, $900; in all, $9,120.

Mr. GARDNER of Michigan. Mr. Chairman, I desire to correct an error made under a misapprehension in this paragraph, and I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Line 16, page 15, strike out "nine hundred" and insert "twelve hundred." In the same line strike out "one" and insert "four."

Mr. MANN. Mr. Chairman, I will ask the gentleman if he proposes to make it what it was last year?

Mr. GARDNER of Michigan. Yes. They asked for another officer, and we refused that, and at the same time, under a misapprehension, reduced the amount. We simply restore what we had last year, without an additional officer.

The CHAIRMAN. The question is on the two amendments offered by the gentleman from Michigan, which, without objection, will be considered together.

The question was taken, and the amendments were agreed to.

The Clerk read as follows:

For services of temporary draftsmen, computers, laborers, additional field party when required, purchase of supplies, care or hire of teams, purchase and maintenance of a motor vehicle, $5,000; all expenditures hereunder to be made only on the written authority of the Commissioners of the District of Columbia, and may include the purchase of a motor vehicle at a cost not exceeding $1,500, said vehicle to be driven by a member of the field party using the same.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I notice that the gentleman does not increase the amount that is appropriated for this service, but does provide that $1,500 of the $5,000 shall be used for motor-vehicle purposes. How much of this $5,000 is ordinarily used?

Mr. GARDNER of Michigan. So far as I know, substantially the whole of it; but it is believed, and this was put in the bill by the clear statement of the engineer commissioner, that it would add greatly to the economy of the service if they could have the motor vehicle. As is known, they go over the various parts of the District of Columbia at points widely divergent. They now employ a horse or horses and drive, taking the men with them, and the horses are weighted, and the men go on with the work.

Mr. MANN. They had authority this year to purchase a motor vehicle.

Mr. GARDNER of Michigan. They did not purchase it, and ask that they might purchase one.

Mr. MANN. I can not see what this last provision amounts to. There was a provision in the bill last year authorizing them to purchase a motor vehicle, but I judge they had not money enough. Now, you put in the same authority and then put in express authority to use $1,500, but do not add anything to the appropriation.

Mr. GARDNER of Michigan. Out of the lump sum.

Mr. MANN. They could have done that without this last provision.

Mr. GARDNER of Michigan. They did not.

Mr. MANN. I suppose they did not have money enough. If it is desirable to purchase a motor vehicle, why did we not appropriate money enough to permit them to get it?

Mr. BOWERS. The appropriation was increased last year by $3,000. The increase is from $5,000 to $8,000, and the reason for the concluding language is to limit the price that might be paid. Part is cared for by the increase of work, and the statement of the engineer commissioner is that this will accomplish about 50 per cent more work, or twice as much work, in outlying sections. The appropriation for 1909 was about $5,000.

Mr. MANN. That is what it is now. It is $5,000 now, and there is no need of an increase——

Mr. BOWERS. I see the gentleman is right. I was misled by the estimates.

Mr. MANN. Exactly what I wanted to call attention to. The estimate is undoubtedly larger. I do not know whether they need a motor vehicle or not. If it is economy to let them have it it is economy to give them money enough to purchase it.

Mr. GARDNER of Michigan. Was that cleared up?

Mr. MANN. Not at all; the gentleman finds he was in error.

Mr. GARDNER of Michigan. I think I can make that clear to the gentleman. There were three assistant engineers, at $1,500 each, last year——

Mr. MANN. But I am not talking about assistant engineers.

Mr. GARDNER of Michigan. Hear me a moment, please. This bill carries three assistant engineers, at $1,500. The same amount is appropriated for them, but the $1,500 is allowed to stand and is used in the purchase of a motor vehicle, there being at this time but two assistant engineers paid out of this.

Mr. MANN. If there is $5,000 for this, why did not they purchase one out of the existing appropriation?

Mr. GARDNER of Michigan. I think I could not have made myself clear to the gentleman.

Mr. MANN. You certainly have not made yourself clear to me on that point. They have $5,000 under the current appropriation law, with authority to purchase a motor vehicle. Now you propose to give $5,000 in the next appropriation, with authority to purchase a motor vehicle, with especial authority to use $1,500 to purchase that motor vehicle.

Mr. GARDNER of Michigan. Now, if the gentleman will be kind enough to pay attention, I will see if I can not make myself understood. They have now two assistant engineers. This bill provides for three——

Mr. BOWERS. I will state to the gentleman from Illinois that if he will read a copy of last year's bill he will find that there is no provision in that bill for a motor vehicle.

Mr. MANN. I find that is true. That was not so marked on my copy of the bill, but the appropriation is the same. If the gentleman is satisfied, I have no reason to complain, but it is perfectly clear you have authority to use an appropriation for the current year, or else you have not got enough for the ensuing year if you are going to use one-third for the purchase of a motor vehicle.

Mr. GARDNER of Michigan. Allow me to say—I think the gentleman will bear with me for a moment—we carried one assistant engineer on the per diem roll last year at $1,500. Now, that $1,500 remains in this bill, but the engineer on the per diem roll last year is paid out of the other sum, leaving $1,500 to be used for the purchase of a motor vehicle, which amount last year was paid for an engineer on the per diem roll.

Mr. MANN. Well, do I understand they pay an engineer on the per diem roll out of an appropriation providing for the services of temporary draftsmen, computers, laborers, additional field parties when required, purchase of supplies, care or hire of teams, and so forth?

Mr. GARDNER of Michigan. I understand they may do that; yes, sir.

Mr. MANN. Very well, though I would say it was a clear evasion of the law.

The Clerk read as follows:

For fuel, lighting, fitting up building, including lunch-room equipment, and other contingent expenses, $7,500.

Mr. MANN. Mr. Chairman, I reserve a point of order on the last paragraph. I would like to ask the gentleman in charge of the bill what this lunch-room equipment is?

Mr. GARDNER of Michigan. Mr. Chairman, there is quite a force of employees at the city library. Some of them live at a considerable distance from where their work requires them to be. Their hours of service do not allow them to go home and get a warm meal. In a room there, not otherwise occupied, there has been provision made where they can make a cup of coffee or tea if they desire to do so. Out of a fund left over in the building of the library this was instituted and has been found a great convenience and conducive to the health and comfort of the employees. I may say that they are paid at a low rate of compensation as compared with many others here in the city, and it is in the interest of health that it is done.

Mr. MANN. What is this lunch-room equipment to cost?

Mr. GARDNER of Michigan. A very small sum.

Mr. BOWERS. It is to replace some dishes and cooking utensils.

Mr. GARDNER of Michigan. A very small sum, whatever it is.

Mr. MANN. I am not so sure. What reason is there which the gentleman can give for providing lunch-room equipment in the Public Library building that can not be given for providing lunch-room equipment in every public building in Washington?

Mr. BOWERS. In reply to the gentleman's last suggestion, the reason as stated by the librarian is that with these employees the hours of some begin in the afternoon and run on continuously into the night, thereby depriving them of the opportunity to go home and get dinner. So they are furnished facilities there for taking their own material, their own food, and putting it into edible shape so that they can have a warm meal in the evening. I am giving the gentleman the librarian's statement of it.

Mr. MANN. There is no caterer maintained there?

Mr. BOWERS. None, as I understand. There are simply facilities for them to heat their own meals.

Mr. MANN. I withdraw the point of order.

Mr. GARDNER of Michigan. On this point I want to say that it involves no increase in the appropriation, but authorizes these purchases to be made under a fund already provided.

Mr. MANN. The fact that it involves no increase in appropriation is no argument at all, because whenever you expend money it involves an increase of expenditure.

The CHAIRMAN. The point of order being withdrawn, the Clerk will read.

The Clerk read as follows:

No part of the money appropriated by this act, except appropriations for the militia, shall be used for the purchase, livery, or maintenance of horses, or for the purchase, maintenance, or repair of buggies or carriages and harness, except as provided for in the appropriation for contingent and miscellaneous expenses or unless the appropriation from which the same is proposed to be paid shall specifically authorize such purchase, livery, maintenance, and repair, and except also as hereinafter authorized.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman whether he would have any objection, as long as these limitations extend only to the old methods of transportation and we are now engaged in a new method of transportation, namely, by motor vehicles, to inserting the words "motor vehicles" in this, so as to read:

Or for the purchase, maintenance, or repair of motor vehicles, buggies, or carriages, and harness.

Is it not time to make this provision apply to motor vehicles as well as to horses and carriages?

Mr. GARDNER of Michigan. Mr. Chairman, I would say in reply to the gentleman that the committee determined to make an express provision wherever there was a variation.

Mr. MANN. But here is a limitation upon the use of money for these purposes unless it be specifically authorized. If that is not necessary, it ought not to be in here. If it is necessary, it does not apply to the purchase of motor vehicles.

Mr. GARDNER of Michigan. Well, I may say in answer to that, that no motor vehicle has been purchased without specific authorization.

Mr. MANN. Probably not. The gentleman may not be informed whether there has or not. I do not know. There had grown up a practice here of buying horses and carriages which the gentleman in charge of the bill knew nothing about.

Mr. GARDNER of Michigan. Well, I think I am safe in saying——

Mr. MANN. This does not merely apply to purchase, but to repair. Should we not know just as well in relation to motor vehicles as in relation to carriages?

I am not criticising the purchase of motor vehicles, but as long as you have commenced it, why not put it on the same basis as you do the others? I move, Mr. Chairman, unless the gentleman from Michigan wishes, to insert after the word——

Mr. GARDNER of Michigan. Just a moment. I would like to ask the gentleman whether that would not be an implied authority to purchase and repair automobiles out of some other provision than this when he makes this amendment?

Mr. MANN. Let me answer the gentleman by asking him a question. Does it imply such authority as that with reference to buggies and carriages as the express provision is? Now, that is the purpose of this limitation.

Mr. GARDNER of Michigan. Already the Commissioners may purchase horses, buggies, and carriages. If you put in this limitation, you endanger enlarging the scope rather than restricting it.

Mr. MANN. Let us see.

No part of the money appropriated by this act, except appropriations for the militia, shall be used for the purchase, livery, or maintenance of horses, or for the purchase, maintenance, or repair of buggies or carriages and harness, except as provided for in the appropriation for contingent and miscellaneous expenses, or unless the appropriation from which the same is proposed to be paid shall specifically authorize such purchase, livery, maintenance and repair, and except also as hereinafter authorized.

Now, under that provision the District Commissioners can not purchase horses unless it is specifically authorized in the bill. They can not purchase buggies or horses unless it is specifically authorized in the bill or an appropriation is made for that purpose. Now, the gentleman himself in the bill specifically authorizes the purchase of a motor vehicle. Why, then, should not that limitation cover motor vehicles and appropriations for that purpose? There is no distinction between a carriage and motor vehicle so far as standing before the law is concerned.

Mr. BOWERS. I think the comptroller has ruled that they can not purchase a motor vehicle out of a general, indefinite appropriation. He has held that a motor vehicle can not be purchased unless specifically appropriated for as such.

Mr. MANN. I undertake to say that there are a dozen items in this bill out of which you might purchase a motor vehicle at $3,500.

Mr. BOWERS. The comptroller has held differently, and that there is a limitation on the purchase. But whether they can do it or not, the commissioners have come to the committee with the request for a specific authorization for the purchase of a motor vehicle, because of this very limitation put on the appropriations made heretofore. They authorized the purchase of vehicles in general terms, and even this has been held by the comptroller as insufficient to authorize the purchase of motor vehicles.

Mr. MANN. Oh, yes; certainly.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I offer an amendment to insert, in line 20, page 19, after the word "of," the words "motor vehicles."

The Clerk read as follows:

Line 20, page 19, after the word "of," insert the words "motor vehicles."

Mr. MANN. That would put motor vehicles on the same plane as other vehicles.

Mr. GARDNER of Michigan. Mr. Chairman, allow me to read:

No part of the money appropriated by this act, * * * shall be used for the purchase, livery, or maintenance of horses, or for the purchase, maintenance, or repair of buggies or carriages and harness, except as provided for in the appropriation for contingent and miscellaneous expenses, or unless the appropriation from which the same is proposed to be paid shall specifically authorize such purchase, livery, maintenance, and repair, and except also as hereinafter authorized.

Mr. MANN. But you do not name horses and carriages in this miscellaneous and contingent expense.

Mr. GARDNER of Michigan. What is the use of putting it in here? It is not named.

Mr. MANN. If you have a miscellaneous and contingent expense fund, general in its nature, without any restriction, you can purchase the best French motor vehicle you could buy anywhere.

Mr. GARDNER of Michigan. But it is restricted.

Mr. MANN. There is no restriction.

Mr. GARDNER of Michigan. The restriction is specifically stated here. If you put this in, it makes it universal.

Mr. MANN. But there is no restriction as to the purchase of motor vehicles out of that appropriation.

Mr. GARDNER of Michigan. The comptroller has made that restriction, and ruled upon it.

Mr. MANN. I take it that the comptroller has not ruled any such thing. The comptroller has ruled that an appropriation for a specific purpose can not be used for the purchase of motor vehicles. Now, the appropriation for vehicles does not include motor vehicles.

But if you make an appropriation simply for contingent and miscellaneous expenses—$25,000—they can purchase what they please out of that appropriation, and the comptroller has not otherwise ruled.

Mr. GARDNER of Michigan. I am authorized to say that he has made just such a ruling.

Mr. MANN. I am authorized to say that the appropriation is not what you are talking about; that it is not that kind of an appropriation.

Mr. GARDNER of Michigan. Question.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken; and there were—ayes 14, noes 25.

Mr. MANN. If the committee will not accept a reasonable amendment of that sort, I think I shall have to make the point of no quorum.

The CHAIRMAN. The gentleman from Illinois makes the point that there is no quorum present. The Chair will count.

Pending the count,

Mr. MANN. Mr. Chairman, I will withdraw the point of no quorum. It is patent that there is no quorum here, and it is equally patent that the committee does not know a good thing when it sees it. [Laughter.]

The CHAIRMAN. The point of order being withdrawn, the amendment is rejected, and the Clerk will read.

The Clerk read as follows:

Repairs, streets, avenues, and alleys: For current work of repairs of streets, avenues, and alleys, including resurfacing and repairs to concrete pavements with the same or other not inferior material, of which sum $50,000 shall be immediately available, $300,000; and this appropriation shall be available for repairing the pavements of the street railways when necessary; the amounts thus expended shall be collected from such railroad company, as provided by section 5 of "An act providing a permanent form of government for the District of Columbia," approved June 11, 1878, and shall be deposited to the credit of the appropriation for the fiscal year in which they are collected: *Provided*, That the Commissioners of the District of Columbia are hereby authorized, in their discretion, to expend not to exceed $100,000 of the sum hereby appropriated in repairing such streets, avenues, and alleys as they may deem advisable by what is known as the heater method of repairs; and to enter into a supplemental contract for such repairs with the present contractor with the District of Columbia for work of resurfacing and repairing asphalt and coal-tar pavements, if a price satisfactory to said commissioners can be agreed upon between said contractor and said commissioners, and in the event that such a satisfactory price can not be agreed upon, the said commissioners are hereby authorized, in their discretion, to enter into a new contract for such work of repairs by the heater method, after competition, in an amount not to exceed $100,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I notice an item in here which is subject to a point of order, in reference to the heater method of repairs. Will the gentleman give us some information about that?

Mr. GARDNER of Michigan. The gentleman from Texas [Mr. BURLESON] has given attention to that. I will ask him to answer the gentleman from Illinois.

Mr. BURLESON. What does the gentleman wish to know about it?

Mr. MANN. Anything.

Mr. BURLESON. It is a new process of repairing pavements.

Mr. MANN. That is what I supposed. I think we are entitled to some enlightenment.

Mr. BURLESON. We have but little information upon the subject. My understanding is——

Mr. MANN. You have enough information to appropriate a hundred thousand dollars for it.

Mr. BURLESON. Our understanding is that this is a more economical method than has been heretofore used for the repairing of streets, and our idea was if this economical method is used the District and the General Government should get the benefit of it. Consequently we put in this proviso, in order that a contract for the repair of streets by this new method of repairing might be entered into, and if it results in effecting great economy we desire the General Government and the District be given the benefit of it.

Mr. MANN. I quite agree with the gentleman. On the other hand, unless the gentleman has information—I assume that he has some—it is possible under this provision for the District Commissioners, if they wish to, which I assume they do not at present, greatly to favor the present contractor, because they can give him a new contract on this heater method at any price they choose without competition.

Mr. BURLESON. The purpose of the proviso was to prevent such thing; in fact, it was intended to accomplish just the contrary—to effect a saving.

Mr. MANN. The proviso expressly authorizes them to enter into a contract if they choose. I assume that at present they would not.

Mr. BURLESON. It was put in at the request of the engineer commissioner, in order that the District might enter into a contract during the next fiscal year, and by adopting the new method of repairing the streets—the heater method, I believe it is called—effect a saving to the District and the Government.

Mr. GILLETT. It is a method by which they melt the tar right on the street.

Mr. MANN. That is no new method. I have seen that in operation on the streets of my home city for years.

Mr. BURLESON. The method in contemplation may not be new in Chicago, but it is new in Washington.

Mr. MANN. Oh, I think I have seen it in Washington since I have been here.

Mr. BURLESON. Recently, yes; but before last year, I think not.

Mr. MANN. No; not recently, unless I am very much mistaken.

Mr. GILLETT. I think this particular method is new.

Mr. BOWERS. This particular method is new.

Mr. BURLESON. It is entirely new here; was never used before this fiscal year.

Mr. MANN. This particular method may be new; and if it is, it may be extremely desirable. It may be worth hundreds of thousands of dollars to this contractor to have it said that Congress has adopted his patented method. That is the reason we ought to know what the gentleman knows about it.

Mr. BURLESON. Our understanding is that it will effect a considerable saving to the District and the General Government if this new method is adopted, and so at the request of the engineer commissioner we have given him this authority to enter into a contract providing for the repair of the streets by the heater method.

Mr. DRISCOLL. Let me ask the gentleman is this new plan patented?

Mr. BURLESON. I think not.

Mr. MANN. If it is not patented and is a new process and comes in here in an appropriation bill, I will be surprised.

Mr. DRISCOLL. Is it under the control of any one concern?

Mr. BURLESON. I think not.

Mr. DRISCOLL. Does the gentleman from Texas know anything about it?

Mr. BURLESON. I do not claim to have all the information about it. It was used in the District of Columbia for the first time this year.

Mr. DRISCOLL. What is the information of the gentleman as to whether it is controlled by one concern or not?

Mr. BURLESON. I understand that the engineer can enter into a contract for it.

Mr. DRISCOLL. The word "understand" is very indefinite; it is the meanest word in the English language.

Mr. BOWERS. Mr. Chairman, I will ask the gentleman from Illinois to yield to me a moment. I think my friend from Texas is mistaken as to the duration of the contract now in existence in reference to the repairs of the streets. I ask the attention of the chairman of the committee, and the clerk is sitting beside him and he can correct me if I am wrong. The contract extends beyond the present fiscal year. In other words, it is a contract for more than one year. Since the contract was made the particular method of repair which is contemplated by this provision has come into use. The contractor, because the price is less and the profits perhaps less, or for some other reason, declines to proceed with this method, sticking to the old method of doing things, and the object of this provision is to enable the commissioners to flank him by doing the work by other means outside of that contract—by this approved and cheaper method, which the engineer commissioner estimates will be about 80 per cent of the present cost.

Mr. MANN. Now, Mr. Chairman, that information, I think, is very satisfactory to everybody. I want to call attention of the gentlemen to another provision, and that is in reference to the amounts for repairing pavements on street railways where it provides that the moneys collected shall be deposited to the credit of the appropriation for the fiscal year in which they are collected. That was one of the items I had in my mind a while ago in speaking of some provision like that in the bill, although that does not relate to fees collected. Another provision is on page 21, for advertising notices of taxes in arrears, where the fund is reimbursed out of fees collected

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

There was no objection

The Clerk, proceeding with the reading of the bill, read as follows:

Anacostia flats: For employment of special counsel to investigate and determine the ownership of the land and riparian rights along the Anacostia River, for the purpose of improvement of the Anacostia flats, $5,000.

Mr. MANN. Mr. Chairman, I reserve a point of order on the last paragraph. I understand that there is a commission which has been appointed and is now engaged in collecting information in reference to the title of property owned by the Government in the District of Columbia. That was provided for, I think, last year. Now, what is the object of providing for an attorney to do that same work over again?

Mr. GARDNER of Michigan. I do not understand that this is the same proposition. This is specifically to determine the title as to land and riparian rights along the Anacostia River.

Mr. MANN. To determine the title to private property, or to determine whether the property is private property or belongs to the Government?

Mr. GARDNER of Michigan. The latter.

Mr. MANN. We have a commission now in existence doing that very thing.

Mr. BOWERS. What commission does the gentleman from Illinois refer to?

Mr. MANN. A commission to report as to the title to real estate owned by the United States in the District of Columbia.

Mr. BOWERS. When was the commission authorized?

Mr. MANN. I think last year. It grew up, as I remember it, out of the discussion in the Sydney Bieber case, concerning which there was considerable talk in the House and at the other end of the Capitol last year. I see by the papers that the commission has been at work and is likely to make some kind of a report.

Mr. BOWERS. Was it authorized by law or created by executive action?

Mr. MANN. I do not remember, but I do not see that that makes any difference. If the Executive has jurisdiction to direct some one to make an investigation, and he has exercised that power, there is no necessity for making a specific appropriation for the purpose.

Mr. BOWERS. Let me say in reply that if the commission was created, as the gentleman thinks it was, by reason of the discussion that grew out of the Bieber matter a year ago, it is hardly probable that that commission will regard it within the scope of its work to go into this particular matter here, namely, the Anacostia flats. The Appropriation Committee has been confronted year after year with the contention that some improvement, some reclamation, perhaps, was necessary as to the Anacostia flats. It is demanded as a sanitary measure, if for no other reason.

Now, up to this time they have declined to take up the question of the improvement or the reclamation of those flats because the title to the property is uncertain, and it is in dispute whether that property belongs to the Government or is vested in private persons. As a first and preliminary step, an essential to doing anything, if we determine thereafter that anything should be done, it is necessary that the title of the property should be determined, and it seemed to the committee, and I must confess it seems to me now, even though this commission may be at work, that it is eminently wise to have this question of the title examined into and reported upon by a trained lawyer who can make such investigation and make a report upon which Congress can safely proceed in this very important matter.

Mr. MANN. If the Government seeks to do anything with this property, and if it has title, of course it can not lose the title by any process.

Mr. BOWERS. Certainly not. It is proposed, however, that the Government shall do something with this property if for no other reason than to protect the health of the District, and it is suggested that it be done by a reclamation of the land.

We do not want to go into the business of reclaiming the lands of private owners. We want to determine whether this is owned by the Government or whether it is owned by other persons before any step is taken for the reclamation of these flats. If it is private property and some sanitation is needed, the character of legislation will be very essentially different from that which we would enact if it were Government property, and when reclaimed would be the property of the Government.

Mr. MANN. The gentleman has explained the matter very lucidly. The item in the appropriation bill is for the identical purpose I supposed it was—for the purpose of putting the Government on record as commencing a very expensive improvement of the Anacostia flats. There can be no excuse for this appropriation to examine the title to these flats, unless it be the purpose of the Government to proceed with the improvement of

the flats; and it seems to me that we ought to have some intimation on that subject before we insert the entering wedge. This improvement is one of undoubtedly great importance to many people and undoubtedly one of tremendous expense to the Government, if undertaken.

Mr. BOWERS. Does the gentleman think that the mere inquiry into the title of this property would bind the Congress to proceed any further with the matter?

Mr. MANN. No; but the gentleman thinks this: There is no object in inquiring into the title of the property and spending money for that purpose unless it be the intention of the Government to make use of that information, and we can not make use of that information unless we proceed to the improvement of the flats. If it were a private owner, he might lose the title to his property through the statute of limitations. That is quite a different proposition. But the Government does not need to protect itself against the running of the statute of limitations or against laches. The title of the Government, such as it is, will remain in the Government for the next hundred years, although we did nothing concerning this property.

Mr. HARRISON. Why does not the corporation counsel investigate it?

Mr. BOWERS. There is no doubt in the world that this inquiry is the first step, but neither that committee nor this House would ever commit itself to any improvement of the Anacostia flats until a proper plan for their improvement was presented, and until they had critically examined into both the project and the cost and determined upon the advisability of making the expenditure and doing the work according to that given plan.

Mr. HARRISON. Will the gentleman yield?

Mr. BOWERS. Yes.

Mr. HARRISON. Why does not the corporate counsel investigate this title?

Mr. BOWERS. Because the corporation counsel's office has all the work now that it can do, and because the work can be better done by a specialist in land-title examination.

The CHAIRMAN. The time of the gentleman has expired. Does the gentleman from Illinois insist on his point of order?

Mr. MANN. I reserve the point of order for the present.

Mr. EDWARDS of Georgia. How many assistants has the corporation counsel?

Mr. BOWERS. I can not recall now.

Mr. EDWARDS of Georgia. Does the gentleman recall the salary of the corporation counsel?

Mr. BOWERS. I can tell the gentleman by turning to the page of the bill. There are so many figures in the bill that it is impossible to carry them in one head.

Mr. EDWARDS of Georgia. I note that back here on page 23, line 6, there is a provision for the employment of special counsel not to exceed $3,000 per annum.

Mr. BOWERS. That is a provision that runs with every bill. To say the least of it, there is as much work in that office as it is possible for the force to do, working full or perhaps overtime.

Mr. EDWARDS of Georgia. Does not the gentleman think it would be in the interests of economy to add another corporation counsel and cut out these special fees?

Mr. BOWERS. No, I do not; if for no other reason than that given this afternoon by the gentleman from Arkansas [Mr. MACON] at an earlier stage of the proceedings, that when you create an office it is very hard to get rid of that office. Besides, this is the work of a specialist; this is work of a character that ought to be done by men trained to the particular work of investigating titles. It is a piece of work in the nature of an emergency. It is not continuing in its character. It has to be done, and that is the end of it. There is no need for the services afterwards of the man who makes that investigation.

Mr. EDWARDS of Georgia. If you will permit a suggestion, it seems to me that this is work with which the corporation counsel and his office ought to be familiar, and if they are not now familiar with it they ought to begin to get familiar with questions of this kind.

Mr. BOWERS. Every lawyer is more or less familiar with the examination of titles, and yet that does not interfere with the fact, as every lawyer knows, that there are specialists in the matter of the examination of titles who are infinitely better equipped for that work than the best trial lawyer that ever went into a court room.

Mr. EDWARDS of Georgia. But you do not provide there shall be an expert; you simply provide for special counsel.

Mr. BOWERS. Certainly; and under that term they would employ a man who is an expert, an expert in that class of work, just for the same reason that we know they would not employ a brickmaker or a carpenter or a blacksmith.

Mr. EDWARDS of Georgia. I have here the provision in the bill for the office of the corporation counsel, which provides for one corporation counsel at $4,500, a first assistant corporation counsel at $2,500, a second assistant corporation counsel at $1,800, a third assistant counsel at $1,600, a fourth assistant corporation counsel at $1,500, a stenographer, and so forth.

Mr. BOWERS. Yes; does the gentleman think those sums are not necessary for the corporation counsel's office of the District?

Mr. EDWARDS of Georgia. I am unable to tell; but I think it is work that ought to be done through the office of the corporation counsel.

Mr. BOWERS. But the gentleman has not answered my inquiry as to whether the force is too great for the office of the corporation counsel for the District of Columbia.

Mr. EDWARDS of Georgia. I believe the force ought to be added to if the work is more than they can do.

Mr. BOWERS. You would add to the permanent force by reason of a temporary emergency?

Mr. HUGHES of New Jersey. I assume from the language that there are some private landowners interested in this proposition.

Mr. BOWERS. No; the point is this. The understanding of the committee is that this land is claimed by the Government of the United States, that at the same time private proprietors claim to own it. There is a conflict of claims, and it is to determine whether it is Government property that this investigation is made as a preliminary step to moving at all in the premises. In other words, we do not want even to consider this scheme of reclamation if this is private property. If it is Government property, then the question as to whether or not we will consider it will properly arise.

Mr. DRISCOLL. I would like to ask whether there has been a contest to the title of this property in any court?

Mr. BOWERS. None that I am advised of.

Mr. DRISCOLL. What is the complication about the title to this property?

Mr. BOWERS. The complication arises out of the fact that there have been and are adverse claims to this water front, known as the "Anacostia flats."

Mr. DRISCOLL. Who has made adverse claims?

Mr. BOWERS. I do not know the names of the people, but if the gentleman will examine the hearings he will find that this contest over the title to this property has been brought to the attention of Congress time after time, I do not know for how many years back. There is no doubt in the world there is a substantial controversy.

Mr. DRISCOLL. It does not seem to me we should provide a compensation of $5,000 for a man to investigate this title, and there is no use for it, especially when you do not know how much work is involved, and so forth, and if the gentleman from Illinois does not insist upon his point of order I will.

Mr. BOWERS. I will say to the gentleman, as to the compensation, that it was regarded by all the members of the subcommittee, who are lawyers, as being the minimum sum, and not one of them would have undertaken to do such work for that amount or for a considerably larger sum.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. COX of Indiana. Mr. Chairman, I ask that the gentleman's time may be extended for the purpose of asking a question.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the time of the gentleman from Mississippi be extended for the purpose of asking a question. Is there objection? [After a pause.] The Chair hears none.

Mr. COX of Indiana. I desire to ask whether or not there was any showing before the committee as to the probable length of time it would take for this special counsel to look up this matter.

Mr. BOWERS. No; but he was expected to do the work for the lump sum of $5,000.

Mr. COX of Indiana. No matter whether it took six months or a year?

Mr. BOWERS. No matter what time was consumed in the investigation, the sum of $5,000 was to pay for a complete and exhaustive investigation and report on this question.

Mr. COX of Indiana. Was there any special counsel whose names were mentioned or suggested?

Mr. BOWERS. No.

Mr. HARRISON. Will the gentleman yield for a further question?

Mr. BOWERS. Yes.

Mr. HARRISON. Where are these Anacostia flats?

Mr. BOWERS. They are out here on the Anacostia River, sometimes called, I believe, the "Eastern Branch of the Potomac."

Mr. HARRISON. How many acres?

Mr. BOWERS. It is a large body of land.

Mr. MANN. I would like to ask my distinguished friend from Mississippi [Mr. BOWERS] whether he thinks this sum would be the only sum to be appropriated for this purpose?

Mr. BOWERS. I do.

Mr. MANN. Who would have possession of the records at the end of the number of years that would expire?

Mr. BOWERS. The abstract?

Mr. MANN. The numerous abstracts.

Mr. BOWERS. They would be turned over to the Government.

Mr. MANN. Suppose there should be litigation growing out of this between the Government and private owners as to who possessed the title, who would necessarily be employed as counsel for the Government?

Mr. BOWERS. That I can not say.

Mr. MANN. The corporation counsel's office would have no information on the subject. The information would lie mainly in the bosom of the gentleman who had received the $5,000.

Mr. BOWERS. Could not the corporation counsel's office familiarize itself with the subject of taking the abstracts, and would not they necessarily go to the Government as a part of this investigation? If it does not, then the gentleman should perfect this provision by such an amendment as will safeguard that point. It certainly was in the contemplation of the commitee that the abstracts, as well as all other fruits of this investigation, the investigation having been paid for jointly by the Government and the District, should be the property of the Government and the District.

Mr. MANN. I quite agree with the gentleman that the corporation counsel's office could perfect its knowledge in reference to information on the subject, and if there be a dispute between private property owners and the government somebody must perfect the knowledge of the corporation counsel's office on the subject if the corporation counsel's office is to represent the government. And if it is necessary for that office to learn about the titles to these flat properties, then, it seems to me, we might as well do it originally as to do it at secondhand.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. MANN] has again expired.

Mr. MANN. The gentleman from Illinois is perfectly willing to have it expire, but I thought I had new time. If the time has expired, not yet being satisfied——

The CHAIRMAN. The time of the gentleman from Mississippi [Mr. BOWERS] has also expired.

Mr. BOWERS. I understood, Mr. Chairman, that on the request of the gentleman from Indiana [Mr. Cox] my time had been extended——

The CHAIRMAN. To answer the question of the gentleman from Indiana.

Mr. BOWERS (continuing). Without any limitation on the extension.

The CHAIRMAN. To answer the question of the gentleman from Indiana.

Mr. MANN. I think I will have to insist on the point of order, Mr. Chairman. The language is as follows:

For employment of special counsel to investigate and determine the ownership of the land and riparian rights along the Anacostia River, for the purpose of improvement of the Anacostia flats, $5,000.

There is no authority in law for the appropriation, and in addition to that it is in the nature of legislation as well.

The CHAIRMAN. Does the gentleman from Michigan [Mr. GARDNER] desire to be heard upon that?

Mr. GARDNER of Michigan. No, sir.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

For public scales: For purchase, repair, and replacement of public scales, $200.

Mr. GARDNER of Michigan. Mr. Chairman, I ask unanimous consent that the paragraph relating to playgrounds be passed without prejudice until to-morrow morning.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent that the paragraph which is about to be read may be passed until to-morrow morning without prejudice.

Mr. PARSONS. Mr. Chairman, reserving the right to object, I would like to ask the gentleman in charge of the bill why he makes the request? I desire to offer an amendment.

Mr. KEIFER. I suggest that the gentleman offer the amendment and let it go over with the paragraph.

Mr. MANN. Why does not the gentleman permit the paragraph to be read, then have the amendment read for information and have it go over, too?

Mr. GARDNER of Michigan. I have no objection to that.

Mr. PARSONS. Very well, then, if I may offer my amendment I will do so.

The CHAIRMAN. The Clerk will read the paragraph.

The Clerk read as follows:

Playgrounds: For maintenance and renewal of equipment and planting trees for outdoor playgrounds, $1,500.

The CHAIRMAN. The gentleman from New York (Mr. PARSONS) offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend on page 34, lines 13 and 14, by striking out the words "one thousand five hundred" and inserting in lieu thereof "fifteen thousand."

Mr. GARDNER of Michigan. I reserve all points of order on the amendment, Mr. Chairman. I ask unanimous consent that this go over until to-morrow morning.

The CHAIRMAN. The gentleman from Michigan reserves all points of order, and asks unanimous consent that the paragraph and the amendment——

Mr. GARDNER of Michigan. Be postponed until to-morrow morning and be taken up the first thing after we go into the committee.

The CHAIRMAN. The gentleman asks that it be the first thing in order when the House goes into committee to-morrow morning. Is there objection? [After a pause.] The Chair hears none.

Mr. GARDNER of Michigan. Mr. Chairman, I desire at this point to call attention to a matter that was inadvertently omitted and to offer an amendment to change the totals on page 16. I ask that the amendment be read.

The CHAIRMAN. If there be no objection, the committee will return to the paragraph indicated for the purpose of the amendment offered by the gentleman from Michigan, which the Clerk will report.

The Clerk read as follows:

On page 16, line 18, strike out "thirty-four" and insert "twenty-five."

The CHAIRMAN. Is there objection?

There was no objection.

The amendment was agreed to.

Mr. EDWARDS of Georgia. I want to ask the gentleman from Michigan a question about a preceding section, the provision for the bathing beach. Where is that beach, and what is the purpose of it? I ask for information.

Mr. GARDNER of Michigan. The bathing beach is down near the Washington Monument. It will interest the gentleman some time when he has leisure to go down and examine it; not for the purpose of bathing there, but simply to examine it and see the provision which has been made for those who are not provided, as the gentleman is, with a private bath.

Mr. EDWARDS of Georgia. I thank the gentleman. I wanted to get the information. I was not familiar with the facts.

The Clerk read as follows:

For repairs and improvements to school buildings and grounds and for repairing and renewing heating and ventilating apparatus, $50,000.

For necessary repairs to and changes in plumbing in existing school buildings, $50,000. A detailed statement shall be submitted to Congress of the expenditure of the foregoing sum, and for the fiscal year 1910 estimates shall be submitted in detail as to the particular school buildings requiring unusual repairs of and changes in plumbing.

Mr. EDWARDS of Georgia. I would like to ask the gentleman from Michigan a question. Here is an appropriation of $50,000 for necessary repairs to and changes in plumbing. Then, in the preceding paragraph, on page 49, line 3, there is another item of $50,000 for repairs and improvements to school buildings and grounds and for repairing and renewing heating and ventilating apparatus. That $50,000 is to be expended on buildings owned by the Government, is it?

Mr. GARDNER of Michigan. Yes.

Mr. EDWARDS of Georgia. Then how about the next item, $50,000, on page 49, line 7?

Mr. GARDNER of Michigan. That is all on government property.

Mr. EDWARDS of Georgia. Then you have a provision in that paragraph, beginning on line 6, down to line 12, on page 49, for a detailed estimate to be submitted to Congress of the expenditure of the foregoing sum, as to the particular school buildings requiring unusual repairs of and changes in plumbing. Why not also require a detailed statement of the expenditures of the $50,000 provided in the paragraph beginning on line 3 of the same page?

Mr. GARDNER of Michigan. That is another one of these matters of administration that the committee does not deem it

advisable to enter into. We have to intrust these things largely to those to whom are committed the carrying out of the work. To undertake to instruct them specifically would be a task that we should hardly like to undertake.

Mr. EDWARDS of Georgia. You undertake it in one instance and do not in the other. The amount is as large in one case as it is in the other. It is $50,000 in each case.

Mr. MANN. We now waste $50,000 a year in changing the plumbing in these schools, because we require the commissioners to make an estimate every year of the possible changes, and there is an incentive to make a report showing necessary changes. It is absurd to say that the school buildings in Washington require, year after year, $50,000 in the changing of plumbing. Yet that is done, because we require this detailed estimate. If you required a detailed estimate of something else, it would be shown how necessary it was in each case. It is the most expensive provision in the bill.

Mr. EDWARDS of Georgia. Then does the gentleman from Illinois think that provision requiring a detailed statement ought to be stricken from the bill?

Mr. MANN. I think it is ridiculous in there now, year after year.

Mr. CAMPBELL. And expensive.

Mr. MANN. And very expensive. As long as it remains in there you will find they will make the estimate to change from one kind of plumbing to another, and if they run out of new kinds, they will go back and change over again.

Mr. COX of Indiana. I should think it would be a good thing to move to strike it out.

The Clerk read as follows:

No expenditure shall be made under appropriations made by this act for gas or electric current used for any purpose whatsoever at a price exceeding 85 cents per 1,000 cubic feet for gas or 4½ cents per kilowatt hour for electric current. This provision shall not apply to lighting streets, avenues, alleys, or highways, the price for which is otherwise limited by this act.

Mr. HARRISON. Mr. Chairman, I move to amend, by striking out, on page 49, line 21, the word "five," so that it will read "80 cents per 1,000 cubic feet."

The Clerk read as follows:

Page 49, line 21, strike out the word "five," so as to read "80 cents per 1,000 cubic feet."

Mr. HARRISON. Mr. Chairman, I do not propose to make any extended remarks on this subject, because it has been debated in the House as recently as December 14, when the Committee on the District of Columbia brought in a bill fixing the price of gas in the District of Columbia at 90 cents; and my colleague [Mr. FITZGERALD] offered an amendment making it 85 cents, which was accepted and passed the House. Since that day the Supreme Court of the United States has rendered a decision upholding the constitutionality of a law of the State of New York which provides that gas shall be sold in New York at 80 cents. Therefore I think it is only suitable that the District of Columbia should have the same price as the city of New York; but, inasmuch as this section refers to the payment by the Government for services rendered by the companies to the Government itself, it certainly is within the discretion of this body, and very advisable, to fix the price at 80 cents. I therefore offer that amendment.

Mr. GARDNER of Michigan. Mr. Chairman, the committee fixed the price named in the bill, the same as that in the bill recommended by the Committee on the District of Columbia, with the exception in the matter of street lighting, which is fixed at a rate lower than that fixed by the District Committee. I hardly see why a schoolhouse should pay less. The meters have to be read, the bills have to be presented, sometimes they are larger and sometimes smaller, the same as with other consumers of not large quantities. Personally, I have no objection to the amendment, but it seems to me, as a matter of justice and fairness, as the House bill is not yet law, it would be better to let it stand where the committee has placed it.

Mr. HARRISON. I will disagree with the gentleman to this extent, that this is a good place to make a beginning. I think if we are finally to have 80-cent gas in the District, this is a good place to begin.

Mr. MANN. Does not the gentleman think it would be more desirable to get 85 cents and then leave it until the other matter is settled?

Mr. HARRISON. Has the gentleman any assurance that we will get 85-cent gas?

Mr. MANN. No; but the House having passed a bill providing for 85-cent gas, the House can consistently maintain that position; whereas if the gentleman's amendment prevails, we should be one day in favor of 85-cent gas and the next day 80 cents, and would maintain no consistent position.

Mr. HARRISON. The reason for advancing the suggestion is that the situation has changed. We have had the decision of the Supreme Court of the United States on the New York case, which decision has been rendered subsequent to the date of this debate in the House on December 14.

Mr. MANN. I understand; but everyone acquainted with the gas proposition takes the position and admits that the price of gas at a particular place depends upon the circumstances in each particular instance, and the price of gas in New York necessarily has no reference to the proper price of gas in Washington.

Mr. HARRISON. I understand the gentleman's colleague [Mr. MADDEN], who has given an exhaustive study to this subject, stated in the House the other day that he thought 75 cents would be a fair price for gas in the District.

Mr. MANN. I do not undertake to say just what the correct price in the District should be; but my colleague [Mr. MADDEN], who has made an exhaustive study of the subject, was willing the other day to pass the bill at 85 cents.

Mr. HARRISON. Only upon the specific statement that he thought a little improvement was better than none. He was in hopes that the House would pass it at 85 cents, but said that 75 cents was a fair price.

Mr. MANN. He agreed to 85 cents, and the House took that position. This is the only course to take if the House wants to maintain its dignity, to maintain the position which it took the other day, until it gets something. Of course this is something that we can regulate at any time afterwards.

Mr. HARRISON. The events which have occurred since the debate in the House should serve for some sort of reason for such action as I recommend.

Mr. MANN. I do not understand that the decision of the Supreme Court with reference to the gas case of New York would affect the situation here at all.

Mr. HARRISON. It affects it so far as it is evident that a law of that sort is going into operation in our State.

Mr. MANN. In New York?

Mr. HARRISON. Yes.

Mr. MANN. On the other hand, as I understand the case, they held in favor of 80 cents in that locality, but that does not settle it under that decision that the same price will apply to the District of Columbia. I am not referring to the cost of manufacturing gas.

Mr. HARRISON. Upon that I am willing to take the testimony of your colleague [Mr. MADDEN], who said that 75 cents was a fair price for gas.

Mr. MANN. Well, the gentleman takes the testimony of my colleague as to a part of it. I do not know what the gentleman from Illinois, my colleague, stated.

Mr. HARRISON. I remember it distinctly, and I have repeated it.

Mr. MANN. I remember this: That in the testimony before the District Committee no one put the price of gas at less than 80 cents. I do not undertake to say what the price of gas in the District should be. I do not know whether it should be 80 cents or 75 cents or 85 cents. I think there should be a reduction. It is quite evident, from such study as I have given to the gas question in the past that each case depends somewhat on itself, and the price of gas in the city of New York does not necessarily fix the price of gas in the more sparsely settled territory, such as Washington. We have taken a position of 85 cents as to the price of gas, and, if I have my way about it, we will maintain that position if it causes the bill to go over to an extra session of Congress.

Mr. HARRISON. I am glad to have the gentleman say that, because I know that he is in a position to render yeoman service, but I hope the gentleman will vote for this amendment to make gas cheaper.

Mr. MANN. If this amendment is adopted, I think it will cause the price of gas to remain at $1. I do not think the gentleman could offer an amendment that would more surely result in keeping the price of gas up than to offer this one, which changes the position of the House as to price.

Mr. HARRISON. Why?

Mr. MANN. A wabbly man, a man whose position is this way one minute and that way the next, is without influence; nobody cares for his opinion. Nobody can be stubborn who changes his mind every minute.

Mr. HARRISON. A great many Members of the House think that the price of gas ought to be cheaper than that.

Mr. MANN. Well, I will repeat that nobody can be stubborn who changes his mind every minute. The House will have to be mighty stubborn if it gets the price of gas reduced.

Mr. HARRISON. I agree so far as the gentleman goes, but I call attention to the fact that this amendment relates to

the sale by these companies of gas to the Government, and the bill brought into the House the other day fixes the price to all the residents, including the Government. It is not exactly the same thing, and there is no wabbling.

Mr. MANN. There is a wabbling as to price.

Mr. GARDNER of Michigan. Mr. Chairman, I hope, in the interest of the lower price of gas, that the committee may be sustained. I agree with the gentleman from Illinois that it is in the interest of cheaper gas that we all stand solidly in line for gas at 85 cents.

Mr. HARRISON. The gentleman will admit that the committee was by no means solid when the vote was taken before. It was 66 to 38, if my recollection serves me. The gentleman may be voicing the position of the minority that voted against the reduction. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and on a division [demanded by Mr. HARRISON] there were 18 ayes and 21 noes.

So the amendment was lost.

The Clerk read as follows:

For extending the telephone system to one 12-room building in the "fourth division," one 8-room building in the "third division," the Bunker High School, including the cost of the necessary wire, cable, poles, cross arms, braces, conduit connections, extra labor, and other necessary items to be expended under the electrical department, $400.

Mr. EDWARDS of Georgia. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee a question in regard to extending this telephone system. Is it a public system or a private system?

Mr. GARDNER of Michigan. It is the government system, the public system, and it is to be extended to these school buildings so as to give the teachers ready communication with the superintendent, and also the fire department and the police department.

Mr. EDWARDS of Georgia. I will withdraw the pro forma amendment.

The Clerk read as follows:

Any unexpended balances in the "Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal years ending June 30, 1907 and 1908, and for other purposes, to rent, equip, and care for temporary rooms for classes above the second grade, now on half time, and to provide for the estimated increased enrollment that may be caused by the operation of the compulsory education law," is hereby reappropriated and made immediately available for the purchase, erection, and maintenance of portable schoolhouses for temporary use.

Mr. GARDNER of Michigan. Mr. Chairman, I would like to offer an amendment on page 42, line 24.

The Clerk read as follows:

On page 42, line 24, strike out the word "eighteen" and insert in lieu thereof the words "twenty-two."

Mr. GARDNER of Michigan. The effect of that amendment is simply to correct the enumeration.

The amendment was agreed to.

Mr. GARDNER of Michigan. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. OLMSTED, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 25392, the District of Columbia appropriation bill, and had come to no resolution thereon.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 4856. An act authorizing the Secretary of Commerce and Labor to lease San Clemente Island, California, and for other purposes.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 7378. An act to extend the time for the completion of a bridge across the Missouri River at or near Yankton, S. Dak., by the Winnipeg, Yankton and Gulf Railroad Company—to the Committee on Interstate and Foreign Commerce.

S. 7640. An act to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk and Southern Railway Company—to the Committee on Interstate and Foreign Commerce.

S. 7785. An act relative to outward alien manifests on certain vessels—to the Committee on Immigration and Naturalization.

WITHDRAWAL OF PAPERS.

Mr. PARSONS, by unanimous consent, was given leave to withdraw from the files of the House papers in the case of Gwinthlean Macrae Robinson (H. R. 13802), Sixtieth Congress, no adverse report having been made thereon.

Also, papers in same case (H. R. 17888), Fifty-ninth Congress, no adverse report having been made thereon.

Mr. STEPHENS of Texas, by unanimous consent, was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Reuben Vermillion, Fifty-eighth Congress, no adverse report having been made thereon.

LEAVE OF ABSENCE.

Mr. BURTON of Ohio, by unanimous consent, was granted leave of absence for three days, on account of important business.

ITALIAN EARTHQUAKE DISASTER.

The SPEAKER laid before the House the following message from the President of the United States (S. Doc. No. 649), which was read and, with the accompanying papers, by unanimous consent, ordered to be printed and placed in the files of the House:

To the Congress of the United States:

I transmit a report of the Secretary of State, submitting a translation of a note from the ambassador of Italy at this capital, in which, under instruction of his Government, he expresses his desire to convey to the Congress of the United States the lively sentiments of the gratitude of the Italian Government for the sympathy shown by that body in view of the disasters that have devastated Sicily and Calabria and for the generous appropriation made for the relief of the sufferers.

THEODORE ROOSEVELT.

THE WHITE HOUSE,
Washington, January 12, 1909.

ADJOURNMENT.

Then, on motion of Mr. GARDNER of Michigan (at 5 o'clock p. m.), the House adjourned.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HULL of Iowa, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 8143) granting to the Chicago and Northwestern Railway Company a right to change the location of its right of way across the Niobrara Military Reservation, reported the same without amendment, accompanied by a report (No. 1835), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill of the House (H. R. 23863) for the exchange of certain lands situated in the Fort Douglas Military Reservation, State of Utah, for lands adjacent thereto, between the Mount Olivet Cemetery Association, of Salt Lake City, Utah, and the Government of the United States, reported the same without amendment, accompanied by a report (No. 1836), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HASKINS, from the Committee on War Claims, to which was referred the bill of the Senate (S. 6764) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri, reported the same without amendment, accompanied by a report (No. 1841), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. OVERSTREET, from the Committee on the Post-Office and Post-Roads, to which was referred the joint resolution of the House (H. J. Res. 216) for a special Lincoln postage stamp, reported the same without amendment, accompanied by a report (No. 1842), which said joint resolution and report were referred to the Committee on the Whole House on the state of the Union.

Mr. TIRRELL, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 21929) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, as amended by an act approved February 5, 1903, reported the same with amendments, accompanied by a report (No. 1834), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. SIMS, from the Committee on War Claims, to which was referred House bill 7479, reported in lieu thereof a resolution (H. Res. 483) referring to the Court of Claims the papers in the case of John A. Taft for services rendered during the civil war, accompanied by a report (No. 1838), which said resolution and report were referred to the Private Calendar.

Mr. HASKINS, from the Committee on War Claims, to which was referred House bill 23799, reported in lieu thereof a resolution (H. Res. 484) referring to the Court of Claims the papers in the case for the relief of William Francis, accompanied by a report (No. 1839), which said resolution and report were referred to the Private Calendar.

Mr. SIMS, from the Committee on War Claims, to which was referred House bill 25189, reported in lieu thereof a resolution (H. Res. 485) referring to the Court of Claims the papers in the case for the relief of the estates of George W. and Richard B. Cooper, deceased, accompanied by a report (No. 1840), which said resolution and report were referred to the Private Calendar.

Mr. CANDLER, from the Committee on Claims, to which was referred the bill of the House (H. R. 24303) for the relief of the estate of Charles Fitzgerald, reported the same without amendment, accompanied by a report (No. 1843), which said bill and report were referred to the Private Calendar.

ADVERSE REPORT.

Under clause 2 of Rule XIII,

Mr. HOLLIDAY, from the Committee on War Claims, to which was referred the bill of the House (H. R. 3060) for the relief of the estate of Dr. Thomas J. Coward, deceased, reported the same adversely, accompanied by a report (No. 1837), which said bill and report were laid on the table.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 22456) granting a pension to Anna E. Siple—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 25465) granting a pension to Bedy Wheeler—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 25644) granting an increase of pension to Isaiah Clarke Steele—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 25913) granting an increase of pension to Jessie G. Hoppock—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 17731) granting an increase of pension to Thomas A. Wirt—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. STEPHENS of Texas: A bill (H. R. 25981) for the erection of a federal building for the United States at Bowie, Tex.—to the Committee on Public Buildings and Grounds.

By Mr. WEEKS: A bill (H. R. 25982) changing the status of certain officers on the retired list of the navy who were retired on account of wounds or other disability incident to service—to the Committee on Naval Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 25983) granting a pension to Albert P. Murray—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25984) granting a pension to Morgan M. Mills—to the Committee on Invalid Pensions.

By Mr. BANNON: A bill (H. R. 25985) granting an increase of pension to David Holt—to the Committee on Invalid Pensions.

By Mr. BARTHOLDT: A bill (H. R. 25986) granting a pension to Henry S. Weir—to the Committee on Pensions.

By Mr. BATES: A bill (H. R. 25987) granting an increase of pension to William Wellman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25988) granting an increase of pension to Edward F. Harter—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25989) granting an increase of pension to Abram Gaskill—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25990) granting a pension to George W. Eckert—to the Committee on Pensions.

By Mr. BINGHAM: A bill (H. R. 25991) granting a pension to Mary A. Murphy—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: A bill (H. R. 25992) granting an increase of pension to Elizabeth S. Reess—to the Committee on Invalid Pensions.

By Mr. CAMPBELL: A bill (H. R. 25993) granting an increase of pension to James F. Williams—to the Committee on Invalid Pensions.

By Mr. COLE: A bill (H. R. 25994) granting an increase of pension to George L. Byers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25995) granting an increase of pension to David W. Henderson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25996) granting an increase of pension to William H. H. Lease—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25997) granting an increase of pension to Alvy Degood—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25998) granting a pension to John Ogan—to the Committee on Invalid Pensions.

By Mr. COOPER of Wisconsin: A bill (H. R. 25999) granting an increase of pension to Bevadilla Henry—to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 26000) granting an increase of pension to Ira B. Gould—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26001) granting an increase of pension to Lyman M. Ramsay—to the Committee on Invalid Pensions.

By Mr. DAVENPORT: A bill (H. R. 26002) granting an increase of pension to David S. James—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26003) granting an increase of pension to Daniel C. Boswell—to the Committee on Invalid Pensions.

By Mr. DAWES: A bill (H. R. 26004) granting an increase of pension to Daniel W. Nutting—to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 26005) for the relief of Henry C. Wolfe—to the Committee on Military Affairs.

By Mr. GARDNER of Massachusetts: A bill (H. R. 26006) granting a pension to Roxanna N. Wilford—to the Committee on Invalid Pensions.

By Mr. GARDNER of Michigan: A bill (H. R. 26007) to remove the charge of desertion from the military record of John W. Pierce—to the Committee on Military Affairs.

By Mr. GOEBEL: A bill (H. R. 26008) granting an increase of pension to Daniel H. Converse—to the Committee on Invalid Pensions.

By Mr. GREENE: A bill (H. R. 26009) granting a pension to Herbert A. Ballou—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26010) granting a pension to Nathan S. Gibbs—to the Committee on Invalid Pensions.

By Mr. HARDING: A bill (H. R. 26011) to correct the military record of John L. Yohn—to the Committee on Military Affairs.

By Mr. HOLLIDAY: A bill (H. R. 26012) granting an increase of pension to Emri Sites—to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 26013) granting an increase of pension to William H. Colsher—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26014) granting an increase of pension to Augustus W. Patterson—to the Committee on Invalid Pensions.

By Mr. HULL of Tennessee: A bill (H. R. 26015) granting an increase of pension to Moses Phillips—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26016) granting an increase of pension to Rufus K. Callahan—to the Committee on Invalid Pensions.

By Mr. ADDISON D. JAMES: A bill (H. R. 26017) granting a pension to George W. Goodman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26018) granting a pension to Thomas Blythe—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26019) granting a pension to J. H. Bule—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26020) granting a pension to R. B. Campbell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26021) granting an increase of pension to George M. Babbitt—to the Committee on Invalid Pensions.

By Mr. KENNEDY of Iowa: A bill (H. R. 26022) granting an increase of pension to Samuel Minnick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26023) granting an increase of pension to Philip Heiser—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26024) granting an increase of pension to George Reiffenoch—to the Committee on Pensions.

Also, a bill (H. R. 26025) granting an increase of pension to William Dalton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26026) granting a pension to George I. Ribyn—to the Committee on Pensions.

Also, a bill (H. R. 26027) granting a pension to William Kudebeh—to the Committee on Pensions.

By Mr. KINKAID: A bill (H. R. 26028) granting an increase of pension to David Cool—to the Committee on Invalid Pensions.

By Mr. McHENRY: A bill (H. R. 26029) granting an increase of pension to William Croft—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26030) granting an increase of pension to Hiram H. Hetler—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26031) granting a pension to Benjamin E. Kneibler—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26032) granting a pension to Laura C. Robison—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26033) granting a pension to Ellen Gunton—to the Committee on Invalid Pensions.

By Mr. MARTIN: A bill (H. R. 26034) granting an increase of pension to Edward D. Mundy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26035) granting an increase of pension to James S. Daugherty—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26036) granting a pension to Charles H. Stinchfield—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26037) for the relief of the First National Bank of Bellefourche, S. Dak.—to the Committee on Irrigation of Arid Lands.

By Mr. MOUSER: A bill (H. R. 26038) granting an increase of pension to Daniel T. Cockerill—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26039) granting an increase of pension to Rudolph Geisiu—to the Committee on Invalid Pensions.

By Mr. NORRIS: A bill (H. R. 26040) granting an increase of pension to Edward L. Hagan—to the Committee on Invalid Pensions.

By Mr. NYE: A bill (H. R. 26041) granting an increase of pension to James E. White—to the Committee on Invalid Pensions.

By Mr. RAINEY: A bill (H. R. 26042) granting an increase of pension to Daniel A. Jones—to the Committee on Invalid Pensions.

By Mr. ROBINSON: A bill (H. R. 26043) granting a pension to Misses M. E. and S. J. Gladney—to the Committee on Pensions.

Also, a bill (H. R. 26044) granting a pension to George H. Preddy—to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 26045) granting an increase of pension to Auguste Eisserman—to the Committee on Invalid Pensions.

By Mr. RUSSELL of Missouri: A bill (H. R. 26046) granting an increase of pension to Alfred Dodge—to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 26047) granting an increase of pension to John I. Cochran—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26048) granting an increase of pension to J. W. Hyatt—to the Committee on Invalid Pensions.

By Mr. SMITH of California: A bill (H. R. 26049) granting an increase of pension to Wing Greene—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26050) granting an increase of pension to Iodine, alias Lewis J. Vosburg—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26051) granting an increase of pension to George W. Wightman—to the Committee on Invalid Pensions.

By Mr. SMITH of Michigan: A bill (H. R. 26052) granting an increase of pension to Frank Chase—to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 26053) granting an increase of pension to James E. Ledbetter—to the Committee on Invalid Pensions.

By Mr. VREELAND: A bill (H. R. 26054) granting an increase of pension to Gardner Wells—to the Committee on Invalid Pensions.

By Mr. WEEKS: A bill (H. R. 26055) granting an increase of pension to Mary E. Balch—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 26056) for the relief of the estate of Charles Fitzgerald—to the Committee on Claims.

By Mr. WILSON of Illinois: A bill (H. R. 26057) granting a pension to John R. Shirley—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 26058) granting an increase of pension to Jesse T. Robertson—to the Committee on Invalid Pensions.

By Mr. STEENERSON: A bill (H. R. 26059) for the relief of Frederick M. Loveless—to the Committee on the Public Lands.

By Mr. WILSON of Pennsylvania: A bill (H. R. 26060) to correct the military record of George O. Pratt—to the Committee on Military Affairs.

Also, a bill (H. R. 26061) granting an increase of pension to John Maneval—to the Committee on Invalid Pensions.

By Mr. SIMS, from the Committee on War Claims: Resolution (H. Res. 483) referring to the Court of Claims the bill H. R. 7479—to the Private Calendar.

By Mr. HASKINS, from the Committee on War Claims: Resolution (H. Res. 484) referring to the Court of Claims the bill H. R. 23799—to the Private Calendar.

By Mr. SIMS, from the Committee on War Claims: Resolution (H. Res. 485) referring to the Court of Claims the bill H. R. 25189—to the Private Calendar.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Petition of Federation of Jewish Organizations, for appointment of a chaplain in the army and navy for the religious comfort and well-being of Jewish soldiers—to the Committee on Military Affairs.

Also, petition of Merchants' Association of New York, against unjust censure of railroad management—to the Committee on Interstate and Foreign Commerce.

By Mr. ALLEN: Petitions of Naples Grange, of Naples; Crooked River Grange, of Harrison; and Westbrook Grange, of Westbrook, all in the State of Maine, favoring a parcels-post law and postal savings banks law—to the Committee on the Post-Office and Post-Roads.

By Mr. ASHBROOK: Paper to accompany bill for relief of Eliza Sells—to the Committee on Pensions.

Also, petition of R. J. Minesinger and others, of New Philadelphia, Ohio, against passage of Senate bill 3940—to the Committee on the District of Columbia.

By Mr. BATES: Petition of Rear-Admiral Henry F. Picking Naval Garrison, No. 4, of Erie, Pa., for legislation retiring petty officers and enlisted men of the navy after twenty-five years of continuous service—to the Committee on Naval Affairs.

Also, paper to accompany bill for relief of William Wellman—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of George H. Eckert—to the Committee on Invalid Pensions.

Also, papers to accompany bills for relief of Edw. F. Harter and Abram Gaskill—to the Committee on Invalid Pensions.

By Mr. BURKE: Petition of National Negro Fair Association, of Mobile, for an appropriation to aid National Negro Exposition near city of Mobile—to the Committee on Industrial Arts and Expositions.

Also, petition of W. A. Avery, J. T. Little, M. D., and others, of Pittsburg, Pa., for legislation prohibiting sale of intoxicants on all property controlled by the United States Government—to the Committee on the Judiciary.

Also, petition of the executive committee of the Prison Association of New York, praying for an appropriation in aid of the International Prison Congress to be held in Washington, D. C., in 1910—to the Committee on the Judiciary.

By Mr. CALDER: Petition of S. M. Erikson, of Brooklyn, N. Y., favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

Also, petition of Leon H. Curtice, for legislation to secure fairer consideration of railway interests—to the Committee on Interstate and Foreign Commerce.

By Mr. CAPRON: Petition of Rhode Island Bar Association, praying for an increase in the salaries of United States circuit and district judges—to the Committee on the Judiciary.

Also, petition of Society of Organized Charity, of Providence, R. I., favoring appropriation in aid of International Prison Congress—to the Committee on Appropriations.

Also, petition of Board of Trade of Providence, R. I., favoring increase of salaries of United States judges—to the Committee on the Judiciary.

Also, paper to accompany bill for relief of Henry Bucklin—to the Committee on Invalid Pensions.

By Mr. CAULFIELD: Petition of St. Louis Typographical Union, No. 8, against Judge Wright's decision in case of Samuel Gompers and others—to the Committee on the Judiciary.

By Mr. COCKS of New York: Petition of Henry Keller, H. W. Dupont, and George E. Miller, favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. CURRIER: Petition of residents of Washington, N. H., against Johnston Sunday bill (S. 3940)—to the Committee on the District of Columbia.

Also, petitions of George Menton Grange, of Westmoreland; Park Grange, of West Concord; Starr King Grange, of Jefferson; and Meriden Grange, of Meriden, all in the State of New Hampshire, for parcels-post and postal savings bank laws—to the Committee on the Post-Office and Post-Roads.

By Mr. DAVENPORT: Paper to accompany bill for relief of Daniel C. Bosnell—to the Committee on Invalid Pensions.

By Mr. DAVIS: Petition of citizens of Lake Mills, favoring H. R. 18204, known as the "Davis bill" (national cooperation in technical education)—to the Committee on Agriculture.

Also, petition of Elysian Hardware Company and others, of Elysian, Minn., against parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. DAWSON: Petitions of George Boyer and 26 other business firms of West Liberty, Whitmer & Griffith and 16 other business firms of Wilton Junction, Snavely Brothers and 6 other business firms of Ladora, Floerchinger Brothers and 9 other firms of Oxford, and Emil L. Boering and 56 other firms of Iowa City, all in the State of Iowa, against parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. DRAPER: Petition of Squires, Sherry & Galusha, of New York, favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. DRISCOLL: Petition of J. J. Howe and other citizens of New York, favoring a parcels-post and a postal savings banks law—to the Committee on the Post-Office and Post-Roads.

Also, petition of business firms of Leonardville, N. Y., against postal savings banks and parcels-post laws—to the Committee on the Post-Office and Post-Roads.

By Mr. ELLIS of Oregon: Petition of Oregon Commandery of the Order of the Loyal Legion of the United States, in favor of H. R. 19250 (civil-war volunteer officers' retired bill)—to the Committee on Military Affairs.

Also, petition of Astoria Chamber of Commerce and Columbia bar and river pilots, asking for an appropriation for operation of government dredge *Chinook*—to the Committee on Rivers and Harbors.

By Mr. ENGLEBRIGHT: Petition against passage of Senate bill 3940—to the Committee on the District of Columbia.

By Mr. FAIRCHILD: Petition of Ellenville (N. Y.) Grange, No. 956, and Milton (N. Y.) Grange, No. 884, favoring parcels-post system and postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. FLOYD: Petition of citizens of Arkansas, against passage of Senate bill 3940—to the Committee on the District of Columbia.

By Mr. FORNES: Petition of Frank Hervey Field, favoring H. R. 21455—to the Committee on Patents.

Also, petitions of New York Board of Trade and Transportation, R. C. Nye, W. F. Heller, and H. Klenhans, all of New York City, favoring reconsideration of railroad-rate law—to the Committee on Interstate and Foreign Commerce.

Also, petition of C. B. Fairchild, favoring S. 7274 (civil-war officers' annuity honor roll)—to the Committee on Military Affairs.

By Mr. FULLER: Petition of George A. P. Cummings, of Joliet, Ill., favoring pensions for ex-prisoners of war in the civil war—to the Committee on Invalid Pensions.

Also, petition of Merchants' Association of New York, favoring legislation to secure fair treatment and consideration of railway interests, etc.—to the Committee on Interstate and Foreign Commerce.

By Mr. GOEBEL: Paper to accompany bill for relief of Daniel H. Converse—to the Committee on Invalid Pensions.

Also, petition of citizens of Cincinnati, Ohio, for an effective exclusion law against all Asiatics save merchants, students, and travelers—to the Committee on Foreign Affairs.

By Mr. GRAHAM: Petition of American Prison Association, for suitable provision for the preparatory work of the International Prison Commission and for the entertainment of the congress—to the Committee on the Judiciary.

Also, petition of R. M. Trimble, C. C. Boggs, and others, of Pittsburg, Pa., for legislation prohibiting sale of intoxicants on all property controlled by the United States Government—to the Committee on the Judiciary.

Also, petition of National Negro Fair Association, favoring an appropriation in aid of National Negro Exposition near the city of Mobile—to the Committee on Industrial Arts and Expositions.

By Mr. GRONNA: Petition of commercial club of Grand Forks, N. Dak., for improvement of the Red River of the North—to the Committee on Rivers and Harbors.

Also, petition of Cheyenne Branch of Railway Postal Clerks, against retirement plan for superannuated employees in the classified service (H. R. 21261) unless the plan be made wholly voluntary—to the Committee on Reform in the Civil Service.

Also, petition of Asiatic Exclusion League, favoring an exclusion law against all Asiatics save merchants, students, and travelers—to the Committee on Foreign Affairs.

Also, petition for legislation to protect prohibition States from the liquor traffic through interstate commerce—to the Committee on the Judiciary.

Also, petition of citizens of Manvel, N. Dak., for retention of present duty on grain—to the Committee on Ways and Means.

By Mr. HAMILTON of Iowa: Petition of citizens of Sigourney, Iowa, against passage of Senate bill 3940—to the Committee on the District of Columbia.

Also, petitions of citizens of Delta, Rose Hill, Harper, Keota, Sigourney, Grinnell, Malcom, Brooklyn, Evans, Eddyville, Monroe, Lavilia, and Albia, Iowa, against a parcels-post and a postal savings banks law—to the Committee on the Post-Office and Post-Roads.

By Mr. HENRY of Connecticut: Petition of Plainville Grange, No. 54, Patrons of Husbandry, for parcels post on rural delivery routes and a postal savings banks law—to the Committee on the Post-Office and Post-Roads.

By Mr. KNAPP: Petition of Keenan & Berginen, of Watertown, N. Y., favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. LIVINGSTON: Papers to accompany bills for relief of John Ward, R. Luther Hays, James K. P. Carlton, John Bridwell, and Prince Ponder—to the Committee on War Claims.

By Mr. McKINLEY of Illinois: Petitions of citizens of Fullerton and Decatur, Ill., favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

Also, petition of citizens of Chicago, for removal of duty on hides—to the Committee on Ways and Means.

By Mr. MANN: Petition of Federation of Jewish Organizations of New York City, favoring appointment of chaplains in the army and navy for Jewish soldiers—to the Committee on Military Affairs.

Also, petition of the Merchants' Association of New York, for legislation to encourage return of railway business to normal conditions—to the Committee on Interstate and Foreign Commerce.

Also, petition of National Woman's Christian Temperance Union, favoring the Littlefield bill, designed to protect prohibition territory against liquor traffic through interstate commerce—to the Committee on the Judiciary.

Also, petition of Chicago-Toledo-Cincinnati Deep Water Association, for surveys for canal between Toledo and Chicago—to the Committee on Rivers and Harbors.

By Mr. MARTIN: Petitions of Commercial Club of Mitchell, business men of Garden City, and business men of Gayville, all in the State of South Dakota, against parcels-post delivery on rural free-delivery routes and for postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Marshall County, S. Dak., against passage of Senate bill 3940 (Johnston Sunday law)—to the Committee on the District of Columbia.

Also, petition of Central City Mining Union and Lead City (S. Dak.) Miners' Union, for legislation to secure investigation of the Treadwell Mining Company in Alaska—to the Committee on Mines and Mining.

Also, petition of L. E. Weller, of Plankinton, S. Dak.; E. S. Lovering, of South Dakota; and Murdo McKenzie, of Mindo, S. Dak., favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. MOON of Tennessee: Paper to accompany bill for relief of estate of William Duncan—to the Committee on War Claims.

By Mr. MUDD: Paper to accompany bill for relief of Rachel A. Ardeeser (previously referred to the Committee on War Claims)—to the Committee on Invalid Pensions.

By Mr. NORRIS: Petitions of business men of fifth district of Nebraska; citizens of Lawrence, Nebr.; and citizens of Grant, Perkins, and Nuckolls counties, Nebr., against parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Nebraska, against passage of Senate bill 3940—to the Committee on the District of Columbia.

By Mr. PRATT: Paper to accompany bill for relief of Jessie G. Hopper (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. PRAY: Letter and telegram of Hon. E. R. Taylor, mayor of San Francisco, and C. W. Hodgson, relative to the Hetch Hetchy grant of water privileges to San Francisco—to the Committee on the Public Lands.

Also, petition of Granite Miners' Union of Montana, favoring legal investigation of the Treadwell Mining Company—to the Committee on Mines and Mining.

By Mr. ROBINSON: Papers to accompany bills for relief of Albert McConnell, Mary J. Utter, and Richard B. Rankin—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of heirs of J. A. Patillo—to the Committee on War Claims.

By Mr. THOMAS of Ohio: Petitions of P. N. Krapp and others, Grayce Rawson and others, M. D. Hugley and others, and G. R. Pierce and others, all of the State of Ohio, favoring a parcels-post and postal savings banks bills—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Barberton, Ohio, favoring parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. WEEMS: Petitions of E. E. Mansfield and others, and citizens of Carroll County, Ohio, against parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

Also, paper to accompany bill for relief of John D. Vail—to the Committee on Invalid Pensions.

By Mr. WILSON of Pennsylvania: Petitions of A. H. Buck and 24 other members of Westfield Grange, No. 1088, of Pennsylvania; W. T. Rich and 32 other members of Chatham Grange; and Francis Reid and 15 other members of Roulette Grange, No. 1289, for a parcels-post system and postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, petition of Paul Laverents, John W. Baker, and D. R. Kinport, against passage of H. R. 21261 (retirement plan for superannuated employees in the civil service)—to the Committee on the Post-Office and Post-Roads.

SENATE.

WEDNESDAY, *January 13, 1909.*

Prayer by Rev. Henry N. Couden, D. D., Chaplain of the House of Representatives.

The Journal of yesterday's proceedings was read and approved.

ELECTORAL VOTE.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, authenticated copies of the final ascertainment of electors for President and Vice-President appointed in the States of North Dakota and Texas, which, with the accompanying papers, were ordered to be filed.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. C. R. McKenney, its enrolling clerk, announced that the Speaker of the House had signed the following enrolled bill, and it was thereupon signed by the Vice-President:

S. 4856. An act authorizing the Secretary of Commerce and Labor to lease San Clemente Island, California, and for other purposes.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a memorial of the Central Labor Union of Wilmington, Del., remonstrating against the enjoining of Samuel Gompers et al. from exercising their constitutional rights to freedom of speech, which was referred to the Committee on the Judiciary.

He also presented a petition of the Maryland School for the Blind, of Baltimore, Md., praying for the adoption of certain amendments to the census bill with respect to the record to be made of the blind in the United States, which was ordered to lie on the table.

Mr. SCOTT presented a petition of Robinson Grange, No. 251, Patrons of Husbandry, of the State of West Virginia, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of Alexander C. Moore, of Clarksburg, W. Va., praying for the enactment of legislation to create a volunteer retired list in the War and Navy departments for the surviving officers of the civil war, which was referred to the Committee on Military Affairs.

Mr. KITTREDGE presented a petition of the South Dakota Educational Association, of Aberdeen, S. Dak., praying for the enactment of legislation providing for a separation of the Bureau of Education from the Department of the Interior and making it a department under the charge of a secretary of education, which was referred to the Committee on Education and Labor.

Mr. GAMBLE presented a petition of the Black Hills Schoolmasters' Club, of Spearfish, S. Dak., praying that an appropriation be made for making available photographic folios of views taken in the work of the Geological Survey and the Reclamation and Forestry services, which was referred to the Committee on the Geological Survey.

Mr. KEAN presented petitions of Pascack Grange, No. 141, of Woodcliff Lake, Wayne Township Grange, No. 145, of Preakness, and Lincoln Grange, No. 136, of Westwood, Patrons of Husbandry, all in the State of New Jersey, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of Archibald G. Smith, of Lambertville, N. J., praying for the passage of the so-called "postal savings banks bill," which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the memorial of R. E. Blood, of Clifton, N. J., remonstrating against the enactment of legislation inimical to the railroad interests of the country, which was referred to the Committee on Interstate Commerce.

Mr. FRYE presented a petition of Silver Harvest Grange, Patrons of Husbandry, of Waldo, Me., and a petition of Franklin Grange, Patrons of Husbandry, of Woodstock, Me., praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which were referred to the Committee on Post-Offices and Post-Roads.

Mr. HOPKINS presented a petition of the Wind Mill Manufacturers' Club, of Batavia, Ill., praying for a general reduction of the tariff, and also for the appointment of a permanent nonpartisan tariff commission, which was referred to the Committee on Finance.

Mr. BURKETT presented a petition of the Commercial Club of Norfolk, Nebr., praying for the enactment of legislation granting travel pay to railway postal clerks, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the State Federation of Jewish Organizations, of New York City, N. Y., praying for the enactment of legislation to create the office of Jewish chaplain in the army and navy, which was referred to the Committee on Military Affairs.

Mr. DIXON presented a paper to accompany the bill (S. 8273) to amend an act approved May 30, 1908, entitled "An act for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," which was referred to the Committee on Indian Affairs.

Mr. BROWN presented a petition of the Commercial Club of Norfolk, Nebr., praying for the enactment of legislation granting travel pay to railway postal clerks, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. RAYNER presented a petition of Linden Spring Grange, No. 260, Patrons of Husbandry, of the State of Maryland, praying for the passage of the so-called "rural parcels-post" and "postal savings banks" bills, which was referred to the Committee on Post-Offices and Post-Roads.

POSTAL SAVINGS BANKS.

Mr. NELSON. I present a paper, by Hon. L. B. Caswell, of Fort Atkinson, Wis., relating to postal savings banks. It is a very short and clear paper, and I move that it be printed as a document (S. Doc. No. 651).

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. SMOOT, from the Committee on Claims, to whom were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (H. R. 8050) for the relief of James R. Wyrick (Report No. 736); and

A bill (S. 7390) for the relief of Christina Rockwell (Report No. 737).